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# THE FIRST PRINCIPLES OF POLITICS

BEING

A COURSE OF LECTURES ON  
POLITICAL PHILOSOPHY

BY

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## PREFACE

Politics today is everywhere the business of the "common man," and there exists an intense interest in the affairs of the state and government. Civics and Politics as separate subjects of studies are now being taught in nearly every university even in India, so that a suitable guide on the 'Principles' that lie behind all state and government is the need of the hour. At present, there is no existing text-book on the subject which meets the requirements of our Curricula or of our needs, and my difficulty throughout has been in the selecting and suggesting of suitable "Readings" to my students. There are a number of books, no doubt, on the 'Principles of Political Science' but there is none on Political Philosophy; and if there are some books which touch upon the topics of this subject, they are either hopelessly inadequate or thoroughly out of date, or they include within their contents more of the theory of government than of the theory of the state. This little book, therefore, has been written both for the student and the layman, and is nothing but a substance of my lectures delivered to the B. A. students of the Lucknow and Allahabad Universities during a period of ten years.

In writing out these lectures in the present form I have deliberately introduced Indian examples (besides others from other countries) so that difficult ideas may be easily grasped and understood by our students. In this way, I hope, I have not only made a difficult subject easy, I have passed a cool and dispassionate judgment upon the Politics of Contemporary India. In so doing, I have not only added to and carried some of the doctrines of Political Philosophy to their legitimate conclusion, but have also presented to the student that great advantage of the study of Political Philosophy which centres round the interpretation of Contemporary Movements. Besides these features, I have also, *for the first time*, presented much of the material of Political Philosophy that remained hitherto unrepresented in any of the so-called text books of

Political Science, a feature which, if he so will, the reader may take cognisance of in nearly every page of this book.

My real purpose having been the suggestion of 'Readings' from great and classical writers, I have faithfully reproduced, sometimes long or very long quotations and extracts from their books so that the students may feel interested in the 'originals' and fall into the habit of consulting the wise, dead or alive. If, therefore, this book which is suggestive rather than comprehensive, expository rather than dogmatic, and critical rather than narrative, evokes the interest for which it is intended, and the students (specially) begin to feel a love for the writings of those who have been cited, quoted, reproduced or recommended, and further, if it makes up the deficiency of a suitable text book which still woefully exists, I will certainly feel greatly satisfied.

I have not deliberately given a very detailed Bibliography for I have cited so many outstanding works that the generality of students would have no time to look to other less known or less significant writings. I have, by these citations, brought within the purview of students, books, classical as well as modern, most of which a vast majority of students never study and sometimes which they never care to know. Now I have at least this satisfaction that they will have to read them compulsorily, for I have presented their material in such a way that the originals can in no sense be neglected. In this sense I hope, this book will justify its coming out by raising the general standard of the subject and therefore of the knowledge of the students who care to read it. A select Bibliography of other well known or standard works, old and recent, has however been provided for those who want to have a still more extensive knowledge of the subject.

I must now acknowledge the deep debt of gratitude that I owe not simply to the authors whom I have read and whom now I am asking others to read, but also to my friends and colleagues who have ungrudgingly helped me. I should, therefore, first acknowledge with all gratefulness the help and guidance that I have throughout received at the hands of Dr. Beni Prasad, M.A., Ph.D., D.Sc., Professor and Head of the Department of Civics and Politics in the Allahabad University. He has not only simply offered valuable

criticisms and weighty suggestions, but without his sympathetic attention this book would have either been still further delayed or might not have been published at all. I am also indebted to Mr. L. D. Gupta, M. A., of the English Department who gave me the idea of having these lectures published and who even went so far as to bring me in touch with the present publishers. For seeing the book through the press, I am not merely thankful but highly indebted to my friends, Dr. Bisheshwar Prasad, M.A., D.Litt. (Allahabad) and Dr. Ram Nath Dubey, M.A., D.Litt. (Paris), who simply because of their affection for me, and in spite of great loss of time, energy and inconvenience to them, helped me in this task at a time when I was suddenly taken ill and was therefore helpless. They, therefore, came to my rescue at the time of need and even saved me from making certain unguarded statements. In the same way I must express my heartfelt gratitude to my brother Mr. Mohammad Ahmad, B.Sc., and to Dr. Benarsi Prasad Saxena, M.A., Ph.D. (London), who offered their help in preparing the Index and saved me from great worry. In the end I must most sincerely acknowledge the great debt of gratitude that I owe to my teachers of the Lucknow University—Dr. V. S. Ram, M.A., Ph.D., Mr. V. K. Nandan Menon, B.A. (Oxon), Dr. E. Asirvatham, Ph.D., who, throughout my study and stay at Lucknow, helped me with all their love and affection.

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## CHAPTER I

### POLITICAL SCIENCE AND ITS RELATION TO OTHER SOCIAL SCIENCES

Man is a social animal. He lives in families or groups. The aggregation of families or groups brings in mohallas, villages, towns, cities and finally the state. It is with the working and problems of these that Political Science is concerned.

We usually say 'Charity begins at home.' In the same sense Politics begins at home, and the state is nothing but a larger family. The family presents the same problems as the state in which we live.<sup>1</sup>

(a) The problems of *control and obedience* arise in the family. A good family member is equivalent to a good citizen. The father may be a tyrant, an autocrat or a constitutional ruler; the mother, an adviser and administrator; and the children, the people over whom the government of the father and the mother is exercised. Even the questions regarding the limits of control and obedience come to the forefront and we are forced to ask: Can the father kill his wife and children and dispose them of as he pleases? Should the wife and children implicitly obey or have they a right to disobey, resist or rise openly in rebellion against the authority of the father? What is the extent of liberty which should be enjoyed by the wife and the children?

(b) Further, the problems of *domestic economy* are the same as that of national economy—the income and expenditure determining the character of the family and the state. Thus family poverty, prosperity and property may be compared on a smaller scale with national poverty, prosperity and territory.

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<sup>1</sup> See Aristotle's Politics, Chap. III (Book I).



(c) Besides, questions regarding the *health and education* of the family are similar to those of public health and mass education.

In these ways, therefore, the family is the state in miniature.

Political Science thus deals with the state in general.<sup>2</sup> Its business is not only to make a citizen, but a *good and intelligent citizen*. The word 'political' comes from the Greek word 'Polis' meaning a city or fort. Thus 'Political' means 'pertaining to the problems of the city.' The Greeks lived in city-states, our modern large territorial states (or as Mac Iver calls them, country states)<sup>3</sup> having been unknown to them: hence the term 'Political' came to mean 'concerning the problems of the state.' Science means systematized knowledge: thus Political Science stands for *a systematized knowledge regarding the problems of the state*, that is, it deals with the state as it *has been* in the 'past,' as it *is* in the 'present' and as it *ought to be* in the 'future.' It traces its origin and development, analyses and examines its framework or structure, and marks out the end or the purpose which it ought to have in view.

This takes us to the relation of Political Science to other social sciences, for it is with their help that we can know the past, the present and the future of the state. Thus in the study of its origin and development, we will have to count upon Anthropology, Religion and History; in the analysis of its present institutions, we will have to depend upon Economics, Sociology and Jurisprudence and in the understanding of its aim or goal we will have to refer to Ethics and Philosophy. But this division of the social sciences as helping the study of the past, the present and the future of the state is in no sense water-tight; it does not for a moment suggest, for example, that History and Religion are useful *only* in the past or Sociology and Economics *only* in the present. They may be and are useful in the study of Political Science in *all* its aspects. What is intended in this division is simply to point out the *special significance* of a

<sup>2</sup> J. R. Seeley, Introduction to Political Science, p. 17. He shows how the state, distinct from the family and the nation, is the subject of Political Science.

<sup>3</sup> Mac Iver adopts this term in 'The Modern State.'

social science in the study of a particular aspect of Political Science.

Political Science is specially related to History which is the record of a progressive realisation of human ideals in all spheres of life—social, economic, intellectual and political. **Political Science and History.** Narrowly speaking, it represents the political emancipation of man. Political Science as dealing with the state and its government is thus the child of History or as Seeley has said, if History is the root, Political Science is its fruit.<sup>4</sup> For example, if we want to know the present position of the representative institutions in India, we have to consider their origin and development, if not from the establishment of the East India Company, at least from the Regulating Act of 1774. We will have thus to study the Pitt's India Act of 1785, the Acts of 1813, 1833 and 1858 and more specially the Councils Acts of 1861, 1892 and 1909, the last having been better known as the Morley-Minto Reforms. Lastly, we will have to go through the Government of India Act of 1919 including, of course, the constitutional 'reports' like the Muddiman Committee Report, the Simon Report and also the Proceedings of the Round Table Conferences together with the so called 'Communal Award' of His Majesty's Government. Further, we will have to study the Joint Parliamentary Committee Report and then the New Government of India Act of 1935 which is going to transform the administration of this country from a unitary type to a federal form of Government.

In the same way, if we want to know the present position of the Government in Japan, we will have not only to study the position and power of 'Mikado' from the earliest times.

Another illustration. but also the part played by the Shogunate and the significance of the Oath of 1869. Further, we will have to analyse in detail the process which had led to the establishment of a Representative Government in that country and in that, the whole history between 1869 and 1889 will be specially involved and we will have to look into the marvellous self-sacrifice of the feudal lords and the part played by Prince Ito

<sup>4</sup> J. R. Seeley: Introduction to Political Science, p. 4.

in the making of the new constitution. Thus we find that what we usually call 'Constitutional History' is of immense significance in the study of Political Science. We have certainly nothing to do with the 'narrative' aspect of History—the details of the doings of the kings, their wars and dynasties, but we have certainly to look after the 'principles' involved in their action. For example, the details of the English Revolution of 1688, the American Revolution of 1776, the French Revolution of 1789 and the Russian Revolution of 1918 as to how they developed from one step to another are useless for us, but the 'principles' on which they were fought, the 'causes' which brought them in, and the 'effects' which they produced are of incalculable importance in Political Science. In these ways, History is bound up with Political Science.

Anthropology also very greatly helps the study of Political Science for without a good knowledge of early societies, their laws,

**Political Science and Anthropology.** customs, manners and modes of Government, we cannot form an accurate or correct idea of modern institutions. By way of illustration, if we want to know the present structure of Hindu society—its castes and sub-castes, its customs, manners and traditions, even its religion, we will have to consider the customs and manners of the Ancient Hindus and in fact many of their modern habits and institutions will not be really understood without a due reference to their past. Similarly, if we want to study the development of our modern civilization, we will have first of all to set forth the customs and habits of the earliest societies. For example, if we want to know how the individual has come to be the unit of our present society we will have to take help from Anthropology to prove that early society was *communal* in character, that is, its basis was the *group* rather than the individual. Further, if we want to know how the civilized world has come to regulate 'marriage' as we see it bound by certain rules, customs and laws, we will have again to go to Anthropology for explanation, which will thus tell us that in the early stages of civilization, temporary marriage was the rule rather than the exception, and even the husband had to go and live with his wife at *her* residence, and not, as we find to-day, that she leaves her household permanently for that of her husband.

Like Anthropology, Sociology too is of great use to Political Science. In fact, it is far wider in scope. Sociology is the science of society. Political Science is the science of political society. It is thus a *specialized science* dealing with that aspect of social life which comes under *organized* control and obedience. But no clear-cut division can easily be made between the two sciences, for while the whole of the governmental *organization* specially concerns Political Science, it is also an 'element' in the study of the organization of society. It thus forms part as much of sociology as of Political Science, *with the difference* that it is the *chief* element in the study of the latter which *it is not* in the study of the former. The relation between the two sciences, however, can be clearly understood without much difficulty. For example, the institution of marriage by itself is an *element* in the social life of man and is therefore the concern of sociology; but if a 'Sarda Bill' is passed to regulate it in a particular way, it at once becomes a political question and hence a concern of political science, for then it comes definitely within the scope of organized control and obedience. Further, the Hindu, the Muslim or the Christian communities by themselves are the 'subjects' of sociology being parts of the Indian society, but the so called 'Communal Award' of August 1932 which guarantees certain rights to the different communities at once makes the question of communities a political one. In the same sense, the Hindu-Muslim riots represent the pathological side of Indian social life and as such fall within sociological study, but they are also the concern of Government in as much as it has to curb them down, prevent their recurrence and devise means for the pacification of both the communities.

Besides Sociology, Political Science is also related to Economics. While Political Science is the science of state and its government, Economics is the science of wealth, dealing with its production, consumption, distribution and exchange. The Government itself requires money for its expenses. This is why it prepares its annual budget, resorts to taxation to increase its income and provides various facilities to its citizens for trade and commerce, for agriculture and industries,

and for monopolies and trusts; and for all these we have unavoidably to fall upon Economics. If a state is poor in having good economists or lacks a good system of economy, it will also be poor in its administration and efficiency, for no progress of any kind, intellectual, social, political or commercial, is possible without an adequate money and the increasing sources of its revenue. Thus while the two sciences seem to be apart and differentiated with regard to their subject matter, there may appear many problems—'unemployment' is one which often make it difficult for us to decide as to which of these two sciences they really belong. Unemployment is thus both economic and political. In short, both Economics and Politics are intimately related, nay, their interdependence is unquestioned. Ours is an Industrial age and we are all the more dependent upon Economics for the solution of our problems. The great 'world economic depression' of 1931-32 is an instance in point. It had not only affected the social life of man; even governments had to cut down their expenses by means of 'Reduction and Retrenchment' in nearly all branches of their activities. Moreover, from the beginning of the Great War, we have been witnessing the coming of what we call the 'Corporate State,' that is, the state whose business is not simply to govern, but also to enter into commercial enterprises. The Grain and Shipping Corporations were state monopolies in U. S. A. during the Great War, while in India itself we have already witnessed the passing of railways from private companies to state control. In short, the problems of labour and capital, of strikes and unemployment, of trade and public utilities, even the formation of political parties on economic issues and principles—all involve a real connection between Economics and Political Science.

Political Science cannot also ignore Religion. In fact, earlier political societies were religious in character, and most of the

**Political Science and Religion.** modern 'institutions' can only be explained through religion. Kingship, while it *may* be true to have originated in force or conquest, is *no less*

true to have originated in religion. The King represented God on earth and was to be obeyed because it was God's command to obey 'the powers that be.' In India, we may best illustrate it from the ancient history of the Hindus. 'Rama' has always appeared

to them—from the learned down to the most ignorant—in one of these forms, either as 'God' Himself, or as an 'incarnation' of God, or as simply a 'god.' In Jewish theocracy, it was Jehovah Himself who was always supervising over the destinies of the 'Chosen People.' In Islam and Christianity too religion and politics have ever been mixed and intertwined while in Japan the 'Mikado' is not only still the object of worship, he is the 'Son of Heaven.' Even in our own days, when we usually hear the cry that Religion has nothing to do with Politics, we find it consciously or unconsciously creeping in one or other aspects of political life. In England, we often come across the statement, '*By the Grace of God* George VI, King of Great Britain and Ireland, Emperor of India, etc..' and even in Modern Republics where there has been a complete separation of Church and State we still find that the 'Representatives' of the nation in the legislatures and the 'President' as the chief executive have to take an '*oath*' of allegiance and loyalty to the Republic. In brief, Religion has ever been mixed up with political institutions and as much has always been related to Political Science. In the present world though its significance is being day by day minimised, it has yet not been overthrown altogether.<sup>2</sup>

Political Science further is related to Ethics. While Political Science in dealing with state and its government is *directly* concerned with the *public* conduct of individuals, Ethics is **Political Science and Ethics.** the science of morals, dealing with their *private* conduct, that is, if one deals with the *political* order, the other deals with moral order. The chief purpose of Ethics is to make people good. It teaches the rightness and wrongness of human conduct. Thus while Political Science is concerned with *man as a citizen*, Ethics is concerned with *man as man* and as such is prior to Political Science. The two sciences which seemingly are different are nevertheless involved, for we do not want to have simply *citizens*, but *good-citizens*, not simply *political* life but *good political* life, and to bring in this idea of 'the good' the help of Ethics is sought for by Political Science. By

<sup>2</sup> In our own country Mahatma Gandhi's politics is associated with Religion and once he very emphatically declared that 'my politics is guided by my religion.'

way of illustration, we may take an example from India. In the Non-cooperation and Civil Disobedience Movements, which were primarily political, the emphasis of Mahatma Gandhi had always been on 'truth' and 'consistency,' and not on 'fraud' and 'expediency' and these are questions which have a direct connection with the Science of morals or Ethics. Further, the doctrine that the state may adopt *any* means, fair or foul, to achieve its object is wholly political. It ignores the goodness or badness of conduct, that is, morals altogether; but when we emphasize the fact that even the actions of the state ought not to go beyond moral considerations we are basing political policy on ethical principles. This is why the civilized world condemned the German doctrine of 'military necessity' during the Great War.

Again, Political Science also makes use of Psychology. Psychology is the science of Consciousness and deals with the

**Political Science and Psychology.** rational and irrational aspects of human mind. It takes account of the normal and abnormal behaviour of men. Political Science thus becomes dependent upon Psychology when it tries to explain the political side of human behaviour. For instance, if we want to know the explanation of why men obey the state, we will have to take into consideration such elements of mental psychology as reason, fear, respect and indifference. In the same way, if we want to know why men give their life for their country or why they are goaded to rebellion and atrocities, the true explanation will be forthcoming through such elements as love, attachment, emotion, resentment, anger and dissatisfaction.

Lastly, Political Science may also be said to be related to Jurisprudence—the science of Law. As Political Science itself deals

**Political Science and Jurisprudence.** with government and its organization, and as such, law or legal machinery is but a part of its mechanism, Jurisprudence has often been regarded, and perhaps rightly, as a branch of Political Science, for the law whether it is statutory or constitutional, civil or criminal, private or public, falls in every sense within the scope of the state and therefore of Political Science.

[ To sum up, we may say with Barker that 'the moral nature

of man is isolated in no vacuum; it stands in intimate and organic relation with physical structure and economic motive, with legal enactment, with social instinct, with historic or prehistoric institutions.<sup>6</sup> Hence Political Science too cannot stand alone. It must necessarily take help of other social sciences to be able to set forth the laws and principles of man's political action.

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<sup>6</sup> E. Barker, *From Spencer to To-day*, p. 13.



## CHAPTER II

### THE TERMS 'COMPARATIVE POLITICS' AND 'POLITICAL THEORY'.

We have already defined Political Science as the Science which attempts to trace the origin and development, examines the present structure and endeavours to lay down principles

**Political Science and University curricula.** for the future of the state. But in our University curricula we come across two expressions: 'Comparative Politics' and 'Political Theory,' as marking out the courses we have to study in Political Science. This may roughly be regarded as a good division for purposes of study in as much as 'Comparative Politics' stands for political practice, and 'Political Theory' for political ideas.

In 'Comparative Politics' is usually included the study of the development of the state through various stages to its present form and a comparative study of the modern govern-

**The subject matter of Comparative Politics.** mental organizations as we find them in different countries, that is, it involves a study of the Ancient and Medieval political institutions such as those of Greece, Rome and the Middle Ages and also Modern such as the governments of Britain and its Dominions, the Government of India, and the governments of U. S. A., France, Switzerland, Germany, Czechoslovakia and Japan.

This selection, however, is in no sense arbitrary. It is based on a set of political principles which have in some sense either become peculiar to each country or have been applied in

**Reasons of this selection.** a striking or significant manner. For example,

(1) The Government of England. we study (1) England because its parliamentary system has always been recognized as the true model of representative government, its Parliament having been called the Mother of Parliaments.

(2) We study the Dominions (including the Irish Free State) because they have made *national sovereignty* compatible with the

idea of an Empire and the phrase 'Dominion Status' has come to be a new acquisition to political terminology. Further, amidst the whirlpool of world politics in which we are living with the League as a world institution,<sup>1</sup> it is no less interesting to study the British Commonwealth as a world force. There is yet another reason which makes this study imperative for while we have seen the Empires of the Czar, the Hohenzollerns and the Habsburgs crumbling to pieces before the onslaught of the advancing tides of nationalism and democracy, we have yet to know the secret of the solidity and the solidarity of the British Empire.

(3) Along with these, we also study India and its institutions for several reasons.

Firstly, we are Indians and as such we are interested in the study of our institutions. Secondly, these are the days of nationalism which has reached its grand climax from after the Great War touching almost every country of the world and thus affecting India also. Thirdly, it is only after a study of Indian institutions that we can think of applying the best political principles that we find elsewhere in the world, that is, we will come to know how best to apply the democratic principles of Western Government on *eastern* soil and to what extent.<sup>2</sup> The creation of the Indian Dominion will be highly significant from the point of view of the British Empire, for the present Dominions of Canada and Australia, etc., are *British* in origin and the British Commonwealth is a Commonwealth of *British Nations*. With the addition of India as an equal partner in this Commonwealth, the British family will change its character and would truly become the British Commonwealth of *Nations*.

<sup>1</sup> Zimmern's 'The Third British Empire' is a fine little book on the British Empire as world force. He discusses its justification and usefulness along with the existence of the League of Nations.

<sup>2</sup> Dr. Beni Prasad's 'Some Suggestions on the Problem of the Indian Constitution' is an attempt in this direction, while the Joint Parliamentary Committee Report is an excellent treatise on its limitations.

Besides these reasons which actuate us to study the British Empire and its political organization, we study (4) the Government of U. S. A. for several other reasons:—In the

(4) U. S. A. first place, we study it because it is the first and the greatest of *Federal* Republics as against the *Unitary* Government of England and also because it is the 'model' government in which the principles of the separation of Powers have been applied.

(5) We study France, not so much because it has always been an important country having produced a Napoleon or the French

Revolution, not even because it is a *Unitary* Republic as against the *Federal* Republic of U. S. A., but because it well exemplifies the futility of a multiple party system in bold contrast to the English two party system and also because it has the *Continental* peculiarity of having an Administrative Law as against the Rule of Law of England.

(6) We further study Switzerland because it is unique in several respects: (i) In these days of Representative Government it is *the*

country in which Direct Democracy is still prevalent and the instruments of Direct Democracy—Initiative, Referendum and Recall—have been in constant use and (ii) it is *the* country in which Plural Executive is a significant feature so that we have rightly come to regard Switzerland as a 'museum' of political principles.

(7) We select Germany, not because of its Nazism and its Hitlerite Dictatorship, but because of its Weimer Constitution for it

was a unique experience in political experimentation in the sense that a people who had ever been born and bred under autocratic supervision and control had, so to say, within the twinkling of an eye, changed their old skin altogether and adopted a democratic and republican government based on the *most advanced principles* of Political Science. Not only had the federal and unitary principles been blended, not only had the principles of Direct and Indirect democracies been admixed, but also the contemporary political ideas found place in the Constitution in the shape of an Economic Council as an integral part of the governmental organization. The rise of Hitler no doubt has put

the whole machinery of government in the melting pot and we have yet to see the consequences of this great swing of the pendulum. But even if Germany settles permanently under autocratic rule, the study of its democratic constitution would always remain of historical interest and significance and therefore always worthy of study along with the present phases of its administration.

(8) We, however, study Czechoslovakia for no such striking reasons. We study it because it is one of the most modern constitutions, because it is a type of the post-war reconstruction on the basis of the cultural aspect of nationalities.

(9) Lastly, we also study Japan, and this is because it is the first Asiatic country in which Western Representative Institutions were adopted and adapted to the needs of the country and because it presents an interesting study when we look into the fact that how a divinely ordained government has come to be popularly governed.

But this must be borne in mind that this selection of ours is in no sense complete. There are two or three big gaps in our courses of Comparative Politics.

(i) We have overlooked Soviet Russia and its organization perhaps because it is a 'political untouchable' as its communistic basis is fundamentally opposed to the present social order. But this is mere political bias. In fact, the contrast in institutions is a greater reason for its study, the more so because it represents a very recent attempt in social and political organization and reconstruction.

(ii) We have further ignored Italy perhaps because its parliamentary system has been, more or less, a copy of the English system. But the rise of Fascism has changed matters. It has brought in the corporate state and as such deserves a place in the comparative study of political organizations.

(iii) Lastly, the League of Nations is a world organization and it has already functioned for nearly sixteen years. It is therefore high time that it may find a place in our syllabus of Comparative Politics.

Having considered in detail the subject-matter of Comparative Politics, we can now say that Comparative Politics is that branch of Political Science which studies man in (political) action. It gives a comparative view of men's political activities—what they have done and what they are doing at the present time. It thus comes to be, as has already been shown, a study of governments as they have been and as they are to-day. It thus represents Practical politics as against Theoretical politics.

**Comparative Politics.**

We can now easily see to the utility of such a study. In the first place, a knowledge of the practical working of political institutions,

**Usefulness of Comparative Politics.**

(1) Marks future tendencies.

(2) Helps reform.

(3) Creates an intelligent citizen.

past and present, is extremely useful in marking out the tendencies for the future. Secondly, this method of observation, experiment and comparison makes the task of reform easier. It never remains a leap in the dark. Thirdly, besides giving a sound knowledge of an age-long experience of political machinery, it creates an intelligent citizen—a thing which is the urgent demand of democracy.

Comparative Politics in our courses has also been styled as 'Comparative Government' or 'Organization.'<sup>3</sup> In fact, there is not

**Comparative Politics and Comparative Government.**

much difference between Comparative Politics and Comparative Government, and if there is a little, it is negligible. Comparative Politics at first sight suggests superficially the hue and cry of our political life, little emphasizing the study of the political mechanism, that is, it seems to emphasize more practical political problems than a study of the political organization. Comparative Government, on the other hand, seems to connote, on first thought, a study of political structure, little emphasizing the practical problems of political life. But, in general, both the terms have always meant and stood for the study of both the practical problems and governmental structure.

The use of the word 'Organization,' however, is not so very innocent. It is significant and deliberate. It means to displace the use both of Comparative Politics and Comparative Government for the suggestion is that both these

**Organization.**

<sup>3</sup> Vide I.C.S. Syllabus.

expressions have outlived their utility in the present age. They no longer connote all that is desirable and necessary in our present complex society. The late Professor Graham Wallas was the first to see to this difficulty in terminology and hence he began to call the state 'The Great Society' and began to use the word 'Organization' not only for government, but for the whole social structure in which our society has come to be organized. Hence the word 'Politics' has become beautifully vague and the term 'Government' a misnomer. Thus the correct name for our courses in Comparative Politics is *Comparative Organization*.

While Comparative Politics is a study of man *in action*, Political Theory is a study of man *in thought*. It is a study of **Political** political ideas. It endeavours to find out 'principles' and 'political truths.' It thus comes to **Theory:—**  
 (a) Theory of government. deal not only with the theory of the government, but also with the theory of the state. The theory of government sets forth principles which are useful in the study of the *structure* of the governmental machine, whether a government is unitary or federal, has a rigid or flexible, written or unwritten constitution, is a parliamentary or nonparliamentary type, possesses a union or separation of powers, is centralized or decentralized and the like, and hence its chief concern is with Comparative Politics, for it is there that it is really useful. It has been classed with Political Theory because, after all, it also discusses *political principles and political ideas* regarding the form and character of governments.

The theory of the state, however, has nothing to do with the organization of the political machine as such, and if it has anything to do with it, it is only indirectly in so far as the *political truths* which it discusses and establishes may necessitate a change in political institutions for it deals with the *relation of the*

(b) Theory of state or Political Philosophy.

'Graham Wallas, 'The Great Society.' Mr. G. D. H. Cole also has named one of his books as 'Social Theory' and in his 'article' in 'An Outline of Modern Knowledge' (Gollancz), he writes on 'Theories and forms of political organization' (Ch. 17). A similar reason seems to have forced him to adopt the word 'Commune' for Central Government (organization) in his 'Guild Socialism Restated.'

*individual to the state.* It thus definitely deals with political ideas, ideas which may at once be called the First Principles of Political Science and which therefore *ought to form* the basis of all obedience and control. It has in view the real end or the purpose for which the state exists or has come into existence. It is at once *ideal and teleological*. This is why we call it Political Philosophy, for its attempt is always to explain political phenomena on the basis of final causes or ultimate political truths.

Thus the Theory of State or Political Philosophy tries to answer such basic questions regarding the relations of the individual to the state as:

(1) ~~Is the state an end or means? that is, whether it exists for the individuals or the individuals exist for the state.~~  
**Subject-matter of Political Philosophy.**

(2) ~~What is the meaning of the 'sovereign power' in a state?~~

(3) ~~What is Liberty? What are Rights? What is the relation between law and liberty, law and morals?~~

(4) ~~What are the limits of state interference in the life of its citizens? that is, relation of liberty and authority.~~

(5) ~~Why do men at all obey the state? Have they a right to revolt?~~

(6) ~~What is social justice? What is Equality or Fraternity?~~

In short, Political Philosophy deals with ideal or ultimate principles of political life, and thereby determines the form and character of governments under which they ought to be carried on. It is with this aspect of Political Science that the present work deals and it is to answer such questions that it has been undertaken.

But what is the use, it may be asked, of studying Political Philosophy?<sup>5</sup> What good does it serve to ask the why and wherefore of institutions? Why not live and die under the institutions in which you have been born and brought up? The answer is to be sought in the nature of man himself. He is a thinking animal. He reflects, he reasons, he judges and forms his own conclusions. He gains experience and in the

<sup>5</sup> The students may read with profit the advantages and disadvantages of Final Political Philosophy in Willoughby 'The Ethical Basis of Authority.'

light of that experience naturally judges and examines the institutions under which he is living. This is the secret of his progress—progress from the rude beginnings of a naked life and ill-provision and simplicity to the modern fashions in dress, a care for plenty and complexity all round. He has never been a static and lifeless statue: he has ever been a dynamic force and as such has never remained content with the present. He has thought and written, thinks and writes on political problems as a part of his being. Every man, according to his lights has always done it and will always do it. From the humblest peasant to the wisest philosopher this has ever been the case and will remain so. 'Building castles in the air' is a homely proverb and a proverb which touches and reaches the very depths of our humanity.

Besides this natural reason in which every one is always busy, the *real* thinking individuals in the sense of having 'developed faculties'—

(2) Delight of thinkers, will find a sort of intellectual delight in their pursuit, if for no other reason, at least to satisfy their innermost cravings. This is nearly the same reason which I have just called 'natural' with the difference that it has nothing of the 'ordinary' with it: it is something 'specialised.'

Further, we study political theories and political thought for one other great reason. The changing conditions of human environ-

(3) Valuable in the study of past events, ment have always led people to think on the basis of their own problems, that is, the political ideas and theories of a particular period, reflect the tendencies of that period. For example, the *Social*

Contract theories of Hobbes, Locke and Rousseau clearly bring before us the particular political problems of their times and as such their study is helpful in a clear understanding of historical events like the Civil War of England, the Glorious Revolution and the French Revolution.

Fourthly, as Pollock says 'critical philosophy is needful for the exposure of philosophies falsely so called; and in the same way,

(4) Valuable in the refutation of wrong theories, political science must and does exist, if it were only for the refutation of absurd political theories and projects.'<sup>6</sup>

<sup>6</sup> Sir Frederick Pollock, 'A History of the Science of Politics,' p. 4.



Owing to the changing conditions, the ideas of men have also been changing according to fresh experience and light and as such a critical study of past theories must always be useful.

Lastly, though Political Philosophy has a sort of unreality and impracticability, it is nevertheless useful in so far as the element of good in it is greater than the element of wrong. For instance, the so called Utopias of Plato or H. G. Wells may be dubbed as

(5) Valuable in the diagnosis of the disease of the body politic. impracticable, as mere flings of imagination or even as the hysterical fits of their mind: they are nevertheless useful in providing a basis of discussion.

in the analysis of the problems or at least, in the diagnosis of the disease, if not its very correct remedy. The habit of mere philosophizing is certainly bad in the sense that it has an air of impracticability: it does not take account of the realities of the situation, of facts as they are. But it is certainly useful as provoking thought and discussion. You may leave away the chaff and trash and take the real; you may throw away the husk and take the grain. Mahatma Gandhi in India may be a hopeless visionary and an impracticable idealist because his ethico-political concepts throw a heavy demand upon an average human individual; nevertheless, for purposes of study you have the advantage of sifting his ideas and drawing your own conclusions and forming your own opinions.

Besides, the theory of government and the theory of the state. Political theory in our courses also includes the 'History of Political thought,' which means that it takes account of (c) History of Political thought. of political speculation from its very beginnings up to the present day. We study here the political ideas of individual political thinkers from the ancient times such as the political ideas of Plato, Aristotle, Hobbes and Bentham, etc. It may thus include not only pure political philosophy, but also the theory of government.

The term 'political thought,' however, needs further explanation. It may be confused with 'political theory.'

**Political thought and Political theory.** The latter is a narrower term and includes the political ideas of individual writers while, 'political thought' is far wider in scope. It stands for the political ideas extending

over a vast expanse of time. Says Barker, "After all, there is such a thing as political thought which is distinct from and greater than political theory. Political theory is the speculation of particular thinkers, which may be remote from the actual facts of the time. Political thought is the immanent philosophy of a whole age which determines its action and shapes its life. The one is explicit, self-conscious and (it may be) detached: the other is implicit, unconscious and immersed in the stream of vital action."<sup>7</sup> In this sense, Political theory, in our courses, seems to be a misnomer. It ought to be styled 'political thought' which will thus correctly include not only a study of the history of political ideas, but also the theory of government and the theory of the state. But so much can be said in the defence of our present terminology—Political theory—that we are not using it in the technical sense in which it means political ideas of a particular thinker. We are using it in *bare contrast* with *political practice*. Hence while our use of Comparative Politics suggests practical politics or organisation, our use of Political theory is only meant to suggest theoretical politics or political ideas.

Before closing this chapter, we may better say something on the different methods we employ in the study of these two branches of Political Science.

In the first place, we use the *Comparative or the Inductive* method. This is of special significance in Comparative Politics and

**Methods in the theory of government. We collect the date**  
**Political Science:—** from all sources, mark out the changes and

(1) Comparative Method. differences, look into the points of resemblance and contrast, compare them and draw our own conclusions regarding the political phenomena we are considering.

Secondly, this very method becomes *historical* when besides the collection of data from past and present history or different

(2) Historical Method. societies, we also take due care of the effects of climate, products, the nature of the soil and surroundings, and the manners, customs, habits and modes of government of the people, and then in the end draw our conclusions or political principles as general truths. Both these methods are thus

<sup>7</sup> E. Barker: 'The Social and Political Ideas of Some Great Medieval Thinkers.' Edited by F. J. C. Hearnshaw, p. 10.

based on observation, experiment and comparison, in brief. on material facts.

Thirdly, there is the *Deductive or the Philosophic* method which is also called the *a priori or speculative* method. In this, by

(3) *Philosophic Method.* a process of abstract reasoning and discussion we establish certain political truths without any reference to material facts. This is of special significance to Political theory.

Thus while in Comparative or Historical methods we take help from History or Sociology, in the Philosophic method we are helped by Ethics, Psychology and even Metaphysics.

## CHAPTER III

### SOME IMPORTANT DEFINITIONS

We began this book by saying that man is a social animal. He lives in society and is born and bred in society. He cannot live out of it. We have never seen a Robinson Crusoe living in a lonely island. He must always live with his fellow men. While he is born *in* society he is also born *for* society. Social life is the very core of his being. He cannot do without it. As Aristotle says, if he does not live with men and among men, then surely, he is 'either a god or a beast.'<sup>1</sup> Thus society is always composed of individuals and it is individuals that make society. The one is dependent upon the other. We cannot separate them.

But the question arises—which of these, the society or the individual, came first? The answer is difficult. For if we say the society came first, the natural objection comes in as to how *could* it come into existence without individuals; and if we say, the individual came first we have to face a further question, how and when did he come without society; so that, we find it beyond our *reason* to explain it and therefore we have either to admit that God created man or we try to explain his emergence into the present form through a process of evolution. Whatever the case may be the question is as difficult to answer as a further question—whether the egg came first or the hen.

But as the individuals from the very day of their birth or consciousness have always found themselves in the laps of their parents, it is *natural*, nay *logical* for us to assume that the society is prior to the individual,<sup>2</sup> and this establishes the truth of the remark that man is a social animal. He is born in a society of men and can only

<sup>1</sup> Aristotle's Politics (Everyman's Library), p. 4.

<sup>2</sup> See *ibid.*, p. 4. He maintains that the whole is prior to the part in *thought*, though the part comes first in *time*. Thus without man, hands and feet have no

live in a society of human beings. He can do no other. Whether that society is a family or horde it does not matter. What matters most, and first and last, is the fact of the sociability of man. "Men do not make communities," says Cole, "they are born and bred unto them--every individual from his very birth is flung into a social environment."

Thus though we have been talking of 'society,' we have not yet considered as to what it really stands for and what it really means.

**Some terms.** We usually speak of our *community*. We are members of debating or commercial *societies*.

We create political or economic *associations*. We have a thousand *institutions* in our social life. And yet we are not definite as to what we mean by each one of them. A clear and exact *definition* is therefore our first necessity<sup>1</sup> before we enter upon a detailed study of social or political principles. To begin with the word Community.

"By a Community," says Mac Iver. "I mean an area of common life, village, or town, or district or country, or even wider area."<sup>2</sup>

### Community.

This common life is to be such that the men who live there 'develop in some kind and degree distinctive common characteristics, manners, traditions, modes of speech and so on.' It is thus an area where people have come to 'resemble' one another. Besides common traditions and modes of speech, they may further have common customs, common sentiments and common religion. They thus have a feeling tone of their own, a common consciousness of their own.

(a) Common life.

(b) Common consciousness.

meaning. Hence when in embryo, the limbs or parts of the child develop first, then they form a child and yet in thought, the making of a child was first.

<sup>1</sup> G. D. H. Cole: *Social Theory*, Ch. I. Also R. M. Mac Iver in 'Society, its Structure and Changes' says, 'He is born in society and the need of society is born in him,' p. 9.

<sup>2</sup> We know how Socrates tried to find an exact definition. This necessity has become all the more pressing with us because of our complex civilization. *Vide* R. M. Mac Iver's 'Community,' p. 22

<sup>3</sup> R. M. Mac Iver's "Community," pp. 22-23. In his 'Society, its Structure and Changes,' he styles his first chapter 'Key Words' and discusses the four terms which I am discussing here.

A community may be a part of a wider community, and in fact 'all community is a question of degree.' The  
 (c) A question of degree. largest community is the whole world: the smallest, the family, and midway between these two is the nation which is therefore an area of common life, common traditions and common sentiments.

We often speak of a community of blood and a community of religion. The family is the community of blood and so is a clan or a tribe. The Hindus or Muslims or Christians are a community of religion. The vast Muslim community or the Christian community—both of them are spread over five continents, and yet the Muslims of India or Afghanistan and the Christians of India or Abyssinia form communities of their own. The Hindus in America form a community of their own. The English in India and the French and the Portuguese in India form communities of their own, and yet as Europeans, they form a single and wider community of their own. Thus a community has no fixed limits or dimensions. It is a question of degree.

We have also said that a nation too is a community. In India, we have Hindus, Muslims and Christians as separate communities based on the conception of religion; we have further Bengalis, Punjabis and Madrasis as separate communities based on the conception of a common language, though in fact each of them includes Hindus, Muslims and Christians; we have also the commercial community or the intellectual community in which even the borders of common religion and common language have been crossed over. They are the communities of common interests so that every country and every nation presents such crossing and recrossing currents of common life. The conception of a community may thus be a conception of a machinery of wheels within wheels, or it may be a conception of a geometrical problem in which the lines bisect and trisect from several directions. The apparent diversities might yet be the very basis of a real unity. India may become a nation the very day the apparent diversities, if they do not disappear, at least, do not come in the way of a real unity. We have all the essentials of a community—the common life, the common traditions,

even the common aspirations. But we have not yet developed *real* common sentiments. We still emphasize our *separateness*, our *uniqueness*. We have thus to *create* a common outlook, emphasize a *common destiny* and make our life a *real* common life. The superficiality must go: the mental reservation must disappear. We have yet to become genuine, honest and truthful and then we will form a real community, a real nation.

While thus 'a community is a focus of social life, the common living of social beings,' an Association is an *organization* of social life, definitely established for the pursuit of one

**Associations.** or more *common interests*. An association is partial, a community is integral.<sup>6</sup> A community bubbles into associations, permanent or transient and they may be of every kind—political, economic, religious or scientific. In our country, we have the Congress, the Liberal Federation and the All-India Muslim Conference as political associations; the Hindu Sabha and Jamiatul Ulema as primarily religious and pseudo-political associations; the trade unions as economic associations; the Servant of India Society as a great philanthropic association and so on. In the same way, every country and community possesses such associations. They are deliberately formed and are therefore *purposive*. They come into being because men want to achieve some common purpose. In this sense, every church is an association formed with the specific object of common worship; every university is an association formed with the definite object of a common acquisition of knowledge or a common intellectual pursuit and every state is an association formed with the grand object of having a common political life. In short, our social life is nothing but an ever 'widening' chain of associations and therefore of communal life.

But associations cannot function without 'institutions.' How can a University run without the Teaching Staff, without the Registrar's office and without the Executive or the

**Institutions.** Academic Councils? They are the 'Institutions' of a University. What then are Institutions? They are the form, the structure or the framework of an association. They are its life-

<sup>6</sup>R. M. Mac Iver, 'Community,' p. 24. The students will profitably read Book I, Ch. 2 and Book II, Chs. 2, 3 and 4. The same author's 'Society, its

blood. They are the *means* through which the *purposes* of an *association* are fulfilled, the *instruments* through which the *common interests* are realized, the mechanism on which is based the success or failure of an association. Thus the bishops, baptism and marriage are the institutions of a church, and the government, the army, the navy the institutions of the political association which we call the state.

But this is to be always remembered that the institution is not always a mere framework, and custom is not always the raw material

of institutions. For instance, the institution of **An association can also be an institution.** 'marriage' as we find it in the world is but a recognized custom, so is the 'purdah' system.

Such was the Sati system and such is the burying and the burning of the dead. An Institution is as living as an association, nay, a smaller association is by itself an institution of a larger association. The University, we have already seen, is an association, and the different classes within it, of Politics, Economics, English or History are but smaller associations by themselves, and yet they are the institutions of the University. Similarly, an army or navy are themselves associations, but with reference to the state—the great political association, they are mere institutions. Similarly, the family which is by itself an association, is an institution of social life, and in the same sense, the Church and University are but institutions of social life.

To sum up, we may say with Mac Iver that *associations* are *unities* within a Community, but they are not *units* of Community. They are the *organs* of a community, while institutions represent the *form and content* of common life, of associated life. They represent only the *objective* manifestation as against an association which is both subjective and objective. In one word, they represent the structural or organised side of social life, or as we call it, the *social constitution*.<sup>1</sup>

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Structure and Changes' of which reference has already been made may also be read, specially Part I, Ch. I. Mr. G. D. H. Cole's 'Social Theory,' Ch. II may also be usefully consulted.

<sup>1</sup>F. H. Giddings in 'The Principles of Sociology' has very finely analysed this in Book II, Chap. IV, 'The Social Constitution.'



We have now seen the meaning of the terms community, association and institution, but we are yet not clear about the term Society.

'Society, the most general term of all,' says

**Society.**

1. Men in relation.

Mac Iver,<sup>8</sup> 'I intend to use in a universal or generic sense to include every willed relationship of man to man,' and as such community and association are but

'special kinds' or 'aspects' of social life. The most important point, then, in the conception of society is the fact of its being 'willed' or deliberate. It is not a chance assemblage of men such as we witness in a crowd. If a snake is lying dead on a road and people assemble to witness it to fulfil their curiosity, their gathering in no sense creates a *society*: it is a mere *mass* of men, a mere crowd. Society involves a *conscious* act or activity on the part of men. It stands for the whole *scheme* of life. 'Social relations are *threads of life*' and social institutions form the loom on which the threads are woven into a cloth or garment.

Society too, like the community, is a question of degree. The whole world may form a society and even two or three men may form a society. Even a small association like a

3. A question of degree.

Debating club may be called a Debating society. The question of importance is the fact of *relationship* of human beings. *It is human beings in relation that form a society.*

To Cole, it is the whole complex of human relationships: to Miss Follet it is "not a collection of units but a complex of radiating, converging, crossing and recrossing energies."<sup>9</sup> It is a psychic process involving, as

4. An interaction of minds.

McDougall says, an interaction of individual minds.

Thus the very word 'social' suggests that we cannot explain the so called social phenomena without bringing in the action of one human being on another. And yet we talk

**Originality is personal, not ultra social.**

of the *originality* of a particular man. Does it mean that he is original in the sense of being

<sup>8</sup> R. M. Mac Iver's 'Community,' p. 22 of which reference has already been made.

<sup>9</sup> Miss M. P. Follet, 'The New State,' p. 75.

apart from other human beings—of social life? It simply means *personal*, for every act of man has two aspects—personal and social. His acts may have an *individuality* of his own, a *uniqueness* of his own as against the *individualities and uniqueness* of others. But this does not mean that his *personality* is apart from and beyond society. It is part and parcel of society for all his actions and thoughts are the *resultant* or *responses* of social beings, even his environment is that of his fellow men. For example, in our own country, Mahatma Gandhi has an individuality of his own, a unique personality of his own which certainly is incomparable with others, which is peculiarly Gandhian. Even his ideas we are already calling ‘Gandhism’; but all this never means that Mahatma Gandhi is not a social creature, that he is not the product of Indian society. Even his ideas are the resultant of Indian environment. This is true of every man. He is always living in a network of social relationship, in a cobweb of life. He may live in the so-called communities, he may be a member of a thousand associations. He is in the end and in all finality within the social orbit. His circle of friends is society, his communal group is society, his associated life is society. A man always belongs to a family; he is a member of a school or university; he is a Hindu, Muslim or Christian; he belongs to a particular village, town or city and country and he is a member of different clubs and services and in all these he is passing through society. He is living in society. He has to do it. He cannot do without it. Society thus is the very core of man’s being. It is the be all and end all of his existence. ‘Society,’ says Commons, ‘precedes the state just as it precedes the family, the church, the corporation, the political party. It unites all of these as a tree unites its branches.’<sup>10</sup>

<sup>10</sup> H. E. Barnes, ‘Sociology and Political Theory,’ quoted p. 24.

## CHAPTER IV

### THE STATE—ITS ESSENTIALS AND NATURE

In the last Chapter we have seen that the 'state' is a political association, that is, one formed with the specific object of dealing

with the problems of the state or the problems of control and obedience. But the question arises: **The state is a compulsory association.**

How then does it differ from other political associations—the Congress, the Liberal Federation or the All-India Muslim Conference? The answer is, that the state is a *Compulsory* association in which every man by virtue of his birth on a particular soil becomes automatically or *has* to become a member of that state. It is not a question of *choice* or *voluntary consent* as is the case in the membership of other associations. For example, it is not compulsory for us to become a member of the Congress or the Liberal Federation. We may or may not become their members. There is no compulsion on us. But we cannot do without being a member of the Indian State.<sup>1</sup> Similarly, an Englishman, a Japanese or an American cannot do without becoming a member of their own states. It is true, that an American may become by choice a member of the English state just as an English man can become a member of the United States. But this is something very different from the *original* membership of the state of which we are speaking. It is something like 'adoption,' for every state can *refuse* a foreigner to become its member; in fact, it *does* put certain qualifying conditions for its citizenship. Such membership thus is always *acquired*, not *original*.

To return to our definition of the state, we may now say that the state is a *compulsory* political association formed with the specific object of control and obedience. Another ques-

**The state is an independent compulsory political association.**

tion now comes to the forefront. How is it that the Native States of India are not states and are merely regarded as provinces? How is it that

<sup>1</sup> India is not a state technically for it does not fulfil the necessary conditions of statehood which we will see presently.

Korea is not regarded a state: it is simply called a *protected territory*? How is it that Mesopotamia, Palestine and Egypt have been considered not as independent territories but simply British protectorates?<sup>2</sup> Finally, how is it that India itself has always been

<sup>2</sup> Mesopotamia was a province of the Turkish Empire in 1914. It was freed from the Turks during the Great War and was placed under the mandate of Great Britain. Since then it has been known to us as the kingdom of Iraq. On December 14, 1927 a treaty was signed between Britain and Iraq by which the former undertook to recognise the latter as an independent state. Another treaty, that of June 30, 1930, provided for what would happen after the admission of Iraq to the League. Iraq was admitted to the membership of the League of Nations on October 4, 1932 and the mandate was terminated. In this way, Iraq has achieved its independence. But in the last Treaty there are special provisions to secure the air communications of the British Empire so that in *practice* full sovereignty has not been won; and yet it would also be wrong to think that Iraq is a British Protectorate.

Palestine, like Syria, is certainly still a protectorate as are also Morocco, Tripoli, the Federated Malaya States, and French Indo-China. But the case of Egypt, like that of Iraq, has also become doubtful. It was in the Declaration of February 28, 1922 that the British protectorate over Egypt was terminated and Egypt was declared to be an Independent state. But certain matters were "absolutely reserved" by the British Government and it was made clear that the status quo would remain in tact until agreements had been reached by both the governments on these points which may be stated thus:—

- (1) The security of the communications of the British Empire in Egypt.
- (2) The defence of Egypt against all foreign aggression or interference, direct or indirect.
- (3) The protection of foreign interests in Egypt and the protection of minorities.
- (4) The Sudan.

Because of these reservations, the tug of war between the two countries never ceased and it was only under the stress of the Italo-Abyssinian War that a new treaty, that of August, 1936 was concluded. This Treaty terminates the military occupation of Egypt and establishes an Anglo-Egyptian Alliance for 20 years. In this way Egypt also seems to have become independent and is no longer a protectorate, though in practice, as in the case of Iraq, military provisions mar its full sovereignty also.

Another such anomalous case which may also be usefully added here is that of Philippines which is also in a transitional stage of development. Philippines is to-day governed by a dual instrument drafted under an Act of Congress (the Tydings-McDuffie Act) signed by the President of the U. S. A. on May 1, 1934. That dual instrument consists of, firstly, a permanent constitution (subject to the usual powers of self-amendment when full sovereignty is achieved) drafted by a Filipino Constitutional Convention, and secondly, an Ordinance governing the relations

regarded as a British Dependency, and not a separate state? This seems strange specially when each one of them satisfies the conditions of our definition that the state is a compulsory political association formed with the specific object of control and obedience. In each one of them—Indian Native States, Korea, Mesopotamia, Egypt and India, we find every citizen a *compulsory* member of each; and each of them satisfies the condition of possessing the machinery of control and obedience, that is, government. Why then are they not regarded states as such? Surely, our definition is still incomplete in some essential aspect, and it is that it does not emphasise the *independent* character of such *compulsory political association*. It does not emphasise the fact that the machinery of control and obedience, that is, 'government' should not itself obey any other government. In the examples we have taken, the Native states are always at the mercy of the Indian Government and the Indian Government in turn is always at the mercy of the British Government. This is also, more or less, true of the governments of Mesopotamia and Egypt. The Government of Korea, further, takes its orders from the Government of Japan. Thus it is clear that a state is not a *mere political association*: it is not a *mere compulsory political association*: it is a *compulsory, externally and internally independent political association*.<sup>3</sup> To define it more exactly, we may say that it is 'a political community, the members of which are bound together by the tie of common subjection to some central authority whose commands the bulk of them habitually obey and which does not render the like obedience to any earthly superior.'

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between the U. S. A. and the Commonwealth (of Philippines) for a period of 10 years from November 15, 1935. When the Ordinance lapses, the Commonwealth automatically takes over full sovereignty and becomes the 'Philippine Republic.' The President certified on March 23, 1935 that this dual instrument conformed to the Tydings-McDuffie Act, and on May 14, 1935 it was ratified overwhelmingly by the Philippine electorate, both men and women, at a national plebiscite, and came into force on November 15, 1935.'—From the Statesman's Year Book, 1936, p. 646.

<sup>3</sup> Leon Duguit of France in our times has given us an objective theory of law which is the result of our social solidarity. Hence the definition of state as a compulsory political association, externally and internally independent and therefore the source of all positive law has been rejected by him, for a state which fulfills the social needs and wants is not as much a sovereign state as it is a Public service state.

Having now known the exact meaning of the word 'state,' we may consider certain other uses of the term 'state' which have become current but which are technically wrong.

**Wrong use of the word 'state.'**

In the first place, in the term 'Native states' which we have already considered, we find a wrong use of the word 'state.' The great quality of statehood is *independence* and this is exactly what Native states lack. Hence for practical purposes, they are no better than mere *provinces*. The term 'state' there simply connotes 'an organized political unit' and nothing more. In fact, Native states for purposes of accuracy, might have been better called Native provinces as against British provinces or simply princely dominions<sup>4</sup> as against direct British administration.

<sup>4</sup> While all the native states of India are princely dominions, the dominion of His Exalted Highness the Nizam of Hyderabad now claims attention as a strange case of dependency and recognition of rights. The recent November agreement (1936) between the King-Emperor and the Nizam ('The Leader,' Nov. 15, 1936, also of Nov. 17, 1936) leads us to believe that the Hyderabad state, like that of Egypt, is an "ally" of Britain, the difference being that the former is a "dependent" ally and the latter an "independent" ally. In spite of this dependence, some of the provisions of the new agreement are really interesting reading and therefore I summarize them thus:—

- (1) His Exalted Highness shall henceforward hold the dynastic title of His Exalted Highness the Nizam of Hyderabad and Berar.
- (2) The Heir-apparent will be called His Highness the Prince of Berar.
- (3) The Governor of C. P. and Berar will be appointed by His Majesty after consultation with His Exalted Highness.
- (4) The Flag of the Nizam will be flown in Berar under the authority of the Governor of C. P. and Berar.
- (5) Nizam's titles will be conferred on the inhabitants of Berar.
- (6) Nizam's right to hold durbars in Berar subject to the consent of His Majesty's representative has been recognized.
- (7) His Majesty will have no objection to 'Khutba' being read in any mosque in Berar in the name of the Nizam.
- (8) His Majesty will continue to pay to the Nizam the sum of Rs. 25 lakhs annually heretofore paid in respect of Berar.
- (9) An Agent of Nizam would reside at the seat of the C. P. Government for representing the views of his government with reference to any matter which is of common interest to C. P. and Berar, and Hyderabad.
- (10) This agreement would remain outside the jurisdiction of the Federal Court.

Further, we often use the terms 'state management' or 'state education,' meaning thereby *Government action* as against private *initiative*. Thus state education means an education

2. State Education. tion which is directly managed and controlled by the government or its officers, and not by *private* individuals or associations. Our Government schools are thus state managed schools while our aided schools or national schools are private institutions organized and run by Managing Committees formed by citizens interested in education. Thus the term 'state' in state education wrongly stands for Government—the whole standing for the part.

Thirdly, we also usually talk of Church and State. Here too the term has been wrongly used for civil affairs as against ecclesiastical affairs. The church is a religious organization and to differentiate from it the civil side of life and organization, the term 'state' has been used.

We have now defined the term 'state' and have also looked into the wrong uses of that term. We may now consider its essentials or the elements that go to constitute it. A state thus has been said to possess *four* elements:

**Essentials of State.**

- (a) Population.
- (b) Territory.
- (c) Government or Organization.
- (d) Unity or Sovereignty.

And Professor Willoughby has now suggested a fifth—the subjective condition of the *desire* of the people to create a political organization which must find its objective manifestation in that organization.<sup>5</sup> We will discuss them one by one.

Population or the fact that every state must have a people is an obvious and the most important element, for animals or birds cannot create a state which is thus essentially a human organization. One family or ten or twenty families by themselves also cannot form a state. The term 'Popula-

<sup>5</sup> Willoughby, *The Modern State System*, pp. 8—10.

tion' here stands for a large number of people. The Greeks lived in city states which may now be compared to many of our modern Indian villages or towns in extent so that to them some thousand or tens of thousand people were sufficient to make a state. But to us, even a hundred thousand people seem negligible; we talk of millions. Hence our modern states are not mere city states. They are, to use the expression of Mac Iver, country states or large territorial states. Our Indian state would thus comprise of thirty-five crores of human beings, and we can form an idea of other small and big states by their present population.<sup>6</sup> Thus:

U. S. A.	has got more than	120,000,000	people;
England	„ „	40,000,000	„
Switzerland	„ „	4,000,000	„
Afghanistan	„ „	11,000,000	„
New Zealand	„ „	1,300,000	„

In short, our *modern large territorial and country states* are composed of many cities or the so called city states of the Greeks.

Secondly, territory is another essential element in the composition of the state. People by themselves are not sufficient nor is territory by itself adequate. An uninhabited piece

**2. Territory.** of land is useless. Nor will a simple Robinson Crusoe make a state on a lonely island. Nor can people on a boat or steamer form a state as the Pilgrim Fathers did on board the May Flower in 1620 A.D. Nor, further, can the people of our own age form a state in the air by flying in an aeroplane. *A state requires a definite fixed territory which the people who reside on it may claim as their own.* This is why we do not recognize the wandering tribes of Arabia, Central Asia or the Steppes in any sense forming a state. They have no fixed abode because of their pastoral pursuits. They settle wherever there is pasture and game and as soon as it is exhausted, they make for another land of pasture and game. Hence territory is an essential element of the state in the sense of fixity and permanence only and in no other.

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<sup>6</sup> Statesman's Year Book, 1934.



But even the population and territory by themselves singly or collectively do not make a state. There must be some common

*organization among the people established on a*  
**3. Government.** *territory.* Without a common organization the people may divide themselves in groups, parties and even rival and antagonistic associations. The result may be rivalry, conflict and war. Hence a *common authority* and a consequent order wherever people live are the very essentials of human life. In every state, therefore, there ought to be a government which may keep the people in order, for life without law and order is impossible. Those who have witnessed the Hindu-Muslim riots in India can well imagine the necessity of a government wherever people live, and as men have come to live in states as separate, independent political communities as distinguished from other such communities, government has come to be the very essence of all human political organization, that is, the state as we see it. For in spite of the fact that men are everywhere divided into families; Hindu, Muslim or Christian; white, yellow, black or brown, and on the basis of different interests such as economic, social, intellectual or political. they cannot create disorder as in every political unit, that is, the state there has come to be an organization—the government—which looks after control and obedience. It is true, that two political units or states may come in conflict and thus cause war, but this does not cut through our point—the necessity of government within every state, for no state will be able to wage war unless there is order within. Government thus is the very soul of the being of a state. Without it the state cannot be a state worth the name. Who has not witnessed the fall of King Amanullah in Afghanistan? Afghanistan certainly remained a state without a government because of its *fixed territory and population*. But was it worth the name? Had it or could it have any reality or significance against a common foe? Could it make any progress in such a turmoil? Was the life and property of Afghans secure? The answer is, No—and this is because the government as the common organization of the people had fallen. The state in the absence of government is always in abeyance. It exists only in name. This is why we say that the government *changes*

but not the state. It is always fixed and permanent. Thus the state may exist (even though in name and as a travesty of the conception of state) without a government, but not the government without a state. But it is more true to say that a state *cannot* and does not exist without a government, and a government exists *only* as the organization of the state.

Besides Government, a state further must have Unity. By unity we mean that the people who live in a particular territory must obey only One power. Its own Government must be

**4. Unity.** supreme or sovereign. It should not yield obedience to any other human superior externally, nor should it recognize any such check on its internal omnipotence. If there is another human superior without whose orders the government of a particular country cannot do anything, then it does not represent the so called 'Unity.' This is the case in India where the government of the country takes orders from the British Parliament and the British King is the Emperor of India and this is also the case in Korea where the Governor-General is a deputy of the Mikado of Japan. But this is not the case in either Britain or Japan where their own governments are sovereign. They do not receive orders from any other human superior, internal or external, and as such are sovereign and independent, that is, they represent the 'unity' which is the chief characteristic of a state.

Further, to illustrate the internal check on government, we may take the illustration of India. In 1931-32, the Congress under the leadership of Mahatma Gandhi adopted a certain programme which we call the Civil Disobedience Movement. The result of this movement was such that the Government of the country felt the necessity of issuing 'Ordinances' as the ordinary law failed to meet all cases of disobedience. The Congress Working Committee was declared an illegal body because it was trying to establish a parallel government. It is the existence of such parallel government that is deprecated in every state, for it creates an imperium within imperio, a state within the state, that is, there come to be two masters over one people who have thus to give divided allegiance. The unity of the state is thus always in danger.

**Parallel  
government or  
imperium  
in  
imperio.**

In a civil war, further, the unity of the state is broken and this we have witnessed in our own days in China where the different

war lords since 1912 have always destroyed the  
In civil war.                      so-called unity of the state of China.<sup>7</sup> We have  
already seen it in the Afghan Revolution, in which Afghanistan came to be divided under several men—a part under the influence of King Amanullah, another under Sardar Ali Jan at Jalalabad and a third under Bacha Sakao so that there came to be three governments within one state. Hence what we mean by unity is the supremacy of One government, or in other words, *one government, one state*; and conversely, *one state, one government*; and this the Afghans could again achieve under the rule of the late King Nadir Shah and his son and successor King Zahir Shah. Thus it is to emphasise this aspect of the 'unity' of the state that we say that it is an entity complete in itself—all comprehensive, perpetual, permanent and exclusive.

Lastly, a new, perhaps an important factor is now being emphasised as a fifth essential element in the formation of a state.

It is the *subjective desire* of a people living on  
a certain territory to get themselves organized  
under a separate political organization. This is  
all the more significant because we are living in an age of nationalism and democracy and every people of a homogeneous character and possessing a common culture are striving towards creating their own state and government. This is what we mean by the expression—"the self-determination of peoples." The process of creating separate states is neither peculiar to nor it is a product of the 20th century, though it has received marked impetus from after the Great War. The first to break away from the old tradition of having heterogeneous states was Belgium which had been made a part of Holland by the Congress of Vienna. It was certainly an unnatural union because the people of Belgium differed from the Dutch in nearly every important aspect—religion, language or culture. The desire of the people to have their own state thus found its objective

<sup>7</sup> The latest instance of a Civil War as breaking the unity of the state is to be seen in Spain (August, 1936). The year 1937 has already begun and there is as yet no hope of its early termination.      \*

manifestation in 1831 and then again in 1839 when not only Belgium was separated from Holland, but its neutrality was guaranteed. A similar case occurred in the case of Norway and Sweden. In 1905, Norway got itself recognized as a separate state. In the Great War, the Czechs, the Poles and the people of Hedjaz all wanted their separate states and their desire had materialized even before the Peace Conference met in 1919 for the Allied Powers had already promised and accepted their demands. Similarly, the Turks under the leadership of Kamal Pasha rebelled against their own Sultan because he had accepted all the demands of the Allied Powers and formed a new and separate government at Angora, which had certainly nothing to do with Constantinople. The force of circumstances however resulted in the recognition of the Angora government as the real Turkish Government. Thus we may say that *desire* as an element in the creation of states has become really very important. We must, however, bear in mind that desire by itself is as insufficient as territory or population taken singly. Poles always desired to have their own state but without any result. The Jews have been trying for it but have been successful in having only a national home for themselves, but not a state. The subjective element of desire thus is important only when it has reached its *objective manifestation*, when it has been realized in actuality.

To summarise, we can say that the state is neither the people, nor the territory, nor it is the government. It is a community of individuals living in a certain territory and

organized as a political entity under a government  
which recognizes no human superior from with-  
out and no such check from within. It is a

supreme entity, nay, an effective unity by itself. It is at once a  
reality and an abstraction, a fact as well as an idea. It is a  
reality and a fact because we can see it and analyse it to the extent  
that we know the elements of which it is composed—the territory,  
th population and the government; and it is an abstraction or idea in  
the sense that a Parliament or an assembly is an idea. The Indian  
Legislative Assembly<sup>8</sup> is neither the brick and the mortar in New

<sup>8</sup> Under the New Government of India Act of 1935 the name of the Legislative Assembly has been changed into the Federal House of Assembly.

Delhi, nor the flesh and blood of its members.<sup>9</sup> It is the substance common to nearly three hundred minds that occasionally meet in that Capital. This substance represents nothing but a common mind or idea. In the same way, the state, viewed abstractly, is neither people, nor territory, nor government; it is the common mind of the individuals that inhabit it. It is their General Will. It is nothing but their common idea. The state, in fine, is both a fact and an idea.

What then, it may be asked, is the nature of state? Is it a mechanical product, a manufacture fashioned by its engineers within a day or two, or is it the result of gradual evolution of human life from its rude beginnings to its modern complex form? Two answers have been given by political philosophers.

**The nature of the state.**

In the first place, there are the social contract writers who maintain that the state is the result of a contract among individuals.

Finding their individualistic existence in some sense intolerable, they gather together and create the state. Thus the state comes to be a manufacture. But this view which makes the state a plaything of individual caprice, as will be shown later, is untenable. However, it is not wholly useless. It emphasises one great element of truth in the creation and maintenance of states. It is the element of 'consent' of those who compose the state, for no state can endure which has not the abiding loyalty and intelligent patriotism of its people with it. If the people themselves are averse to their being organized in a particular state, then no force can achieve this purpose. It is the active or tacit consent of its citizens that is the real strength of any state.

In the second place, there are other writers who regard the state as a social organism. This view holds that just as in an organism

every part is thoroughly dependent upon the whole for its life and existence, in the same sense the state is a social organism in which every individual is an inseparable part of the whole. The individual apart from

<sup>9</sup> Earnest Barker in his *Political Thought in England "From Spencer to Today"*—discusses this aspect in the chapter on *Idealism* along with the political ideas of Dr. Bosanquet.

the community is as unreal as the community cannot be a community without individuals. The two are inseparable and inter-dependent and neither can exist without the other. This view which is called the 'organic view of the state' is the most correct one for it truly discloses a real and intimate relation between the life of an individual and the community. But this analogy of an organism should not be carried too far. Spencer who was the first writer in *modern times* to use this analogy carried it too far with the result that he committed unpardonable fallacies. An organism involves, in the words of Barker,<sup>10</sup> (1) a living structure composed of parts different in kind; (2) those parts, by reason of their difference, are complementary to one another and mutually dependent; (3) the health of the whole consequently depends on the healthy discharge by each part of its own proper function. The state or society is an organism not literally but only by metaphor. Just as in an organism every part does its appointed function for the health of the whole, in the same sense, the individuals that go to compose the society or state have to do their duty for the good life of the community. Again, just as every organism develops from within, every part developing with the whole according to its natural development, in the same sense the society or state grows from within. It is not made. This is why the conception of the social contract writers falls far short of reality because they regard the state as a mechanical creation. Spencer when he applied the analogy of an organism to the state failed to realise that every individual in the state is not equally in the same position with reference to the whole as members of an organism. In an organism, there is one common censorium and all the parts function automatically. In society, every individual is discrete by himself having a censorium of his own apart from that of the society. Society may be a union of minds, but it does not mean that the individual loses his mind and therefore his individuality.

The truth is that neither the social contract writers nor the organic writers have given us a truly correct picture of the nature of the state. The former have made the state  
 The real truth.                      only a mechanical invention, an aggregate of

<sup>10</sup> Earnest Barker, "From Spencer to Today," p. 107.

atoms though they have emphasised 'consent' as an element of truth in the growth of the state. The latter have belittled individuality and have divorced 'consent,' though they have emphasised the truth of the dependence of the individual and the community upon one another and their continuity and growth. The fact is that we have not yet discovered an appropriate word depicting the true relation of the individual and society—a word that may combine the element of consent and the element of continuity and growth.

## CHAPTER V

### THE ORIGIN OF THE STATE

Having seen the meaning of the term 'state' we should now know something as regards its origin. There are various theories as

**V a r i o u s** to how the state came into being. There is the **theories.**

Divine Origin theory which upholds that it is the handiwork of God; there is the Force theory which states that it is the result of conquests; there is then the Economic theory which explains its origin in the needs of men; there is, further, the Social Contract theory which tries to prove that the state was created by the conscious effort of individuals; and lastly there is the Historical or the Evolutionary theory of the origin of the state which proves that the state is neither a manufacture nor the result of a fiat of Heaven: rather, it is the result of a process of growth in the course of ages in which economic pursuits, cooperation, wars and aggressions have all played a part. Of these theories, we regard the last as the correct explanation of the origin of the state, all others having been discarded as untrue.

But this does not mean that all of them are *totally wrong*. Each of them possesses some element of truth. Thus the Divine Origin

theory makes clear the part religion has played in the making and sustaining of early political societies, and the Force and Economic theories

contain greater elements of truth when we consider the part conquests have played in making and marking the separate political units, and economic needs have brought men together and united them in a single society. Modern Sociologists have come to regard the Force theory as the theory of the origin of the state.<sup>1</sup> While the Social Contract theories have been condemned as false, they have also been regarded as emphasising 'consent' as a great element in the creation and maintenance of states.

<sup>1</sup> ~~M.~~ E. Barnes: Sociology and Political theory, p. 52.



Besides containing these partial truths these theories have also proved useful in other ways. They have, in the first place, helped and influenced contemporary political theory and practice. Thus the Divine theory was held and preached in the middle ages so much so that all political institutions had to justify their existence on the basis of religion as against the Church which was itself divine. Secondly, they have also led to the development of political thought. As they evoked criticism and discussion men were led to think from one step to another. Thus the divine origin of political institutions provoked discussion which resulted in the popular origin of the state. The Social Contract theory was in this sense a reply to the Divine Origin theorists.<sup>2</sup> Similarly, the Social Contract theory because it made the state a manufacture and therefore a plaything of individual caprice brought in the historical origin theory in which the state was thought to be a living monument of the wisdom of ancestors. Thus each theory has proved useful in some way and therefore we may consider each of them in greater detail.

Merits of false theories.

### (a) The Divine Origin theory:

This theory believes in the fact that the state has been founded by God either directly or indirectly. It was His will and pleasure that men should live in the world in a state of political society and therefore He sent the prophets not merely to give them religion, but also to be their Kings. Everywhere in the world we find that early societies were religious in character, their rulers being both kings and priests or gods themselves.

State was founded by God.

In the Jewish theocracy, it was God Himself who was ruling over His 'chosen people.' But for purposes of an actual direction of affairs in this world, there was to be a king as Vicegerent of God on earth and he governed only under appointed laws. In Egypt, 'the king was rated as the son of the most supreme, of the sun-god

<sup>2</sup> A word of caution here is necessary. The students should bear in mind that the Divine Origin theory is not the same thing as the Divine Right of Kings.

Rê;’ in China the emperor was regarded as the son of Heaven and in Japan to this day the Mikado is thought of as the son of Nippon (the sun-god). In India itself all of us know that Rama was not simply a Raja, but that he has been variously regarded as God Himself, as a god and as God incarnate. In short, in nearly every country of the world it was either God who was ruling over men or His agents were their kings so that all states could be traced to divine origin.

In Greece and Rome, of course, we do not find such direct intervention and supervision of God but there too we find an indirect appeal to the supernatural and transcendental.

**In Greece and Rome.** The Greeks certainly believed that the state was the result of man’s nature but this nature was made as such by God. Hence in all acts, ceremonies and sacrifices we find them invoking the help of gods so much so that the Athenians were proud of the fact that they spent much of their time in the service of their gods. Thus if their king was not directly a representative of God, their gods were at least always watching and blessing their activities. Like the Greeks, the Romans also looked towards their gods for help and direction.

With the coming of Christianity, the divine origin of authority further caught hold of men’s minds. Government was an institution which was founded because of the fall of man.

**In Christianity.** There was the authority of St. Paul who said ‘Let every soul be subject unto the higher powers; for there is no power but of God: the powers that be are ordained of God. Whosoever resisteth the power, resisteth the ordinance of God, and they that resist shall receive to themselves damnation.’<sup>3</sup> St. Augustine and Pope Gregory the Great further extended this idea by saying that the reward of a good people was a good ruler and the punishment of a bad people a bad ruler. Even the confession of Augsburg in 1530 affirmed “that all authority, government, law and order in the world have been created and established by God Himself. Government is an institution founded by God because of the fall of man.”

<sup>3</sup> Romans X, 1, 2.

In Islam also, the same religious basis of authority was maintained in so far as the Prophet Muhammad (Peace be on him!) was the last messenger of God and the Islamic state was meant to keep up the reign of God on earth.

Even in our own days when the general trend of thought is against religion, we yet find, as already noted in the first chapter, such expressions as 'By the Grace of God George VI, King of Great Britain and Ireland, Emperor of India.' This sufficiently suggests that though this expression may not be the result of orthodox belief, it shows the divine origin of authority as widely prevalent and accepted.

The theory while in vogue was made use of variously. It was used as an argument for absolutism or for the unity of power in a state. Thus in the middle ages, in the contest between the Pope and the Emperor, arguments were advanced by the protagonists of both to suggest the supremacy of one power over the other. It was further used against democratic ideas as in Germany where the Kaiser claimed his authority on divine basis.

The theory fell in disuse only when the social contract theories with their democratic tinge made their appearance and became powerful and when the republica christiana was torn to pieces before the rising tide of secular states.

Still it was in no sense barren in results. It kept order in early societies for it was a sin to go against the king and therefore none could dare oppose him. In this way, it provided a strong moral basis to authority. Besides, it emphasised the undoubted historic fact of the connection of religion and politics. It showed that the King was not merely a ruler but a high priest also and that in early societies there was no distinction between religion, law, morality and custom.

In the end we may now utter a few words of criticism. Firstly, the fact that it invokes God as the supreme power in the universe and as representing unity of power has always had monarchic prejudice. It tried to emphasise

that monarchy was not only the most desirable but also the most natural power in the political order of things.\* This fact thus goes against human nature itself, for man has got vast capabilities and he could develop them according to his environments. This shows that even a republican form of government can suit human needs. Secondly, the fact that the subjects could not revolt against the kings because it was a sin to do so has always resulted in irresponsibility and the kings also have regarded themselves responsible to God alone and to nobody else. This was specially so in the case of James I of England who did not only believe in the divine origin of state, but also in the divine right of kings. Thirdly, even usurpers have brought in divine justification for their authority. Every Christian was expected to obey his rulers because the "powers that be are ordained of God." Lastly, the absolute character of divine power has been utilised by those who believe in the cult of power. The German writers like Trietzschke have always pleaded for the state as God on earth suggesting that the state was the highest symbol of power, responsible to none and accountable to none.

### (b) The Force theory:

By the 'Force theory' we mean that the state is primarily the result of forcible subjugation through long continued warfare among primitive groups. Gumplowicz was the first

its advocates.

sociological writer who popularised this view in his 'Race struggle' or the theory of 'group conflict' and he was followed by Ratzel in Austria, Oppenheimer and Simmel in Germany, Jenks in England, and Small and Ward in America.<sup>5</sup> They hold that from the very beginning of human history there has always been a struggle among different social groups to achieve economic advantages resulting in the ascendancy of some over others. The conquerors in course of time granted concessions to the conquered who thus reconciled themselves with the existing situation. This led to the formation of the state with law and government came into existence.

\* Filmer tried to justify in this fashion.

5. Barnes: Sociology and Political theory, p. 53.

Oppenheimer<sup>6</sup> thus sets forth the origin or genesis of the state:

During the early stages of its existence the state is the 'wolf state' or it is the result of the activities of a 'band of robbers' as

**Oppenheimer's  
Views.**

The wolf state.

Carey has styled it, for its chief motive of existence is economic exploitation: A victorious group imposes its will on a defeated group and authority and obedience come into being.

The chief motives in the development of life must have been the growing necessities of life, forcing men to acquire for themselves and their families, nourishment, clothing and housing. This was the economic impulse, and Oppenheimer throughout uses 'economic means' for one's own labour or an equivalent exchange of it with others' labour, and 'political means' for the forcible appropriation of others' labour. In this way, he views all history, from primitive times to our own, as a single phase—a contest between the economic and the political means.

Huntsmen are peoples without a state. They live in practical anarchy. All grown-up men have equal status within the tribe which has no chief to command them; and if there is one as in the Botokude, the Central Californians, the Wedda and the Mincopie, his power is nominal. Thus there is not a bit of statehood in the absence of common authority and obedience.

Huntsmen.

The social structure of the primitive peasants or Grubbers is also similar. There is no ruling authority and a chieftain is recognized either owing to his personal qualities or magical powers. The Peruvian peasants as also those of Central Africa lived in this way so that there existed neither the impulse nor the possibility of the warlike subjection of neighbours.

Primitive peasants.

Herdsmen, however, precede the state. They have developed all the elements of the state minus only the fixed territory. They carry on wars, take captives and make slaves of men and women. Booty is acquired and owner-

Herdsmen.

<sup>6</sup> Oppenheimer: *The State*. It is the only best exposition in English of the sociological theory though Edward Jenks also tries to uphold it in his *Law and*

ship of property has come into being. The nomad thus is the first inventor of slavery thereby creating the seedling of the state, the first economic exploitation of man by man. He does not kill his slaves: they enter the tribal economy of herdsmen. The state thus has acquired the form of dominion and its economic basis is the exploitation of human labour. Economic differentiation on the basis of the number of cattle follows and rich and poor come into being. The nobility, the freemen and the slaves become the different classes. The Lapps of Norway, the Central Asiatic nomads and the Hottentots of Africa had all these class distinctions and differentiations. An identical development took place with the sea-nomads, the Vikings.

These herdsmen then descend upon the plains, conquer the peasants and levy tribute. The state in the Old World has come into being. In the New World the hunter is the conqueror of the peasant and the founder of the state. Thus the 'working bees' have developed into the 'robber bees' and the state with government, people and territory has come into existence.

In this way, Oppenheimer marks out six stages in the genesis of the state:

**Six Stages in the development of the state:**

- (i) There is robbery and killing in border fights and endless combats broken neither by peace nor by armistice.
1. Border fights.
- (ii) The peasants after their defeat by hunters or herdsmen make several unsuccessful attempts to throw off the yoke of the foreigners and in the end cease resistance and acquiescence.
2. Resistance and acquiescence.
- (iii) They begin to give away their 'surplus' to the conquerors as tribute, and are happy to be protected from recurring troubles of every day while the herdsmen are satisfied because they have not to labour and spend for their sustenance. The bear has become the bee-keeper. This is the most important stage. The conqueror by sparing his victim has for the first time learnt to capitalize and by Politics in the middle ages. The student will, therefore, do well if he himself studies Oppenheimer's book for purposes of a fuller account and detailed study.
3. Protection and tribute.

defending him against all future aggressions laid the basis of the forces of integration and assimilation.

(iv) This stage represents how in the process of history group conflict has moulded people of different languages and climes into one organic whole. The nation and the state are its results. Common suffering and need, common

4. Assimilation. victory and defeat, common rejoicing and sorrow thus weld different and various peoples, the conquerors and the conquered into those of one speech, one custom and one feeling of nationality. A levy of young warriors is kept, not simply for internal disorder, but also to check fresh bears.

(v) Quarrels among the different villages or settlements of peasants need constant arbitration by the leader of the conquerors, who now decides to send official deputies to each settlement.

5. Quarrels and arbitration.

(vi) Thus in the last stage organized government comes into existence. The leader has become the king and the official deputies his servants. He decides cases, issues orders and punishes offenders. Law and order are the result and the habit of obedience has been formed.

6. Organized government.

The state in all its essentials. 'in form and content' is completed.

While this view of the origin of the state has been established by our modern sociological researches, it does not mean that it is essentially modern. Force as the basis of political

**Brief History of Force theory.**

institutions has always been held in all periods of history. Thus in Greece, Plato informs us, there were many who held that justice was the interest of the stronger, that is, Right was simply whatever was enforced by the strongest power in the state in accordance with its own view of its own interests. In the middle ages, the church fathers designated the state as the result of brute force and therefore of sin and hence tried to establish the supremacy of the church. Among the Individualists, Herbert Spencer stood for the ideal of the survival of the fittest, and the socialists have always regarded the state as based on force—on the exploitation of the weak by the strong. Lastly, the German writers have consistently preached that might was

right and that the state was force. This was the view of Clausewitz, and this is the view of Bernhardi and Trietzschke.

The 'theory of force' thus has a great standing behind it and we cannot easily dismiss it as false and irrelevant. It contains an essential element of truth in so far as states are Truth in the theory. in most cases the results of conquests. This may not be the whole truth. It at least presents partial truth and a truth which is more true of our modern territorial or country states than of others. Now we may offer a few words of criticism to know the part 'force' has played in the creation of states.

Firstly, it minimises the element of co-operation and other peaceful agencies which have undoubtedly been potent factors in the history of the state. Sutherland, Kropotkin and Novicow all have pointed out this defect of the force theory, while there are others who have tried to show that while conflict has played the greater part in political origins, peaceful and co-operative elements have not been without great influence in the past and will probably be even more significant in the future. Its criticism. The upholders of this view are Giddings, Hayes, Stein and Tarde.<sup>7</sup>

Secondly, to say that force has been the sole cause of the origin or endurance of states is also wrong. For force and fear may be powerful agencies in exacting temporary obedience: they cannot maintain this condition for long. There must come a time or opportunity when a greater force will be utilized to undo the grip of the former. This means that permanent obedience can only come through the conscience of individuals and this is what we mean by the remark that 'will, not force, is the basis of the state.' Hence side by side with the element of force we will have to say that the consent of the individuals also counts. It is not simply force which creates and maintains states.

### (c) The Economic theory:

Like the Divine Origin theory, the Economic theory is also very old and is especially connected with the writings of Plato.<sup>8</sup> That

<sup>7</sup>H. E. Barnes: *Sociology and Political theory*, p. 54.

<sup>8</sup>I have not here detailed Aristotle's view on the origin of the state because it is nearly similar, but it has the great merit of combining the economic and the

F. 4



**It is Connected with Plato.**

writer was no doubt primarily a philosopher but in his consideration of the abstract 'notion' of justice he discusses the qualities of the individual and the state. The picture that he is drawing in his 'Republic' is certainly that of an Ideal state—of a state as it *ought to be*, but in that discussion he also gives us his ideas as to the origin of the state. "Well then," says he, "the formation of a city is due, as *I imagine*, to this fact that we are not individually independent, but have many wants . . . thus it is then that owing to our many wants, and because each seeks the aid of others to supply his various requirements, we gather many associates and helpers into one dwelling place and give to this joint dwelling the name of city."<sup>9</sup>

Thus Plato thinks that the origin of state or society (to which in the Greek sense he terms the city) is due to our economic needs,

Man's wants.

to the fact that man by himself is not self-sufficient and without the help of others cannot fulfil his wants. But what after all can be these wants? The first and most pressing of all wants, says he, is that of sustenance or food to enable us to exist as living creatures: our second want is that of a house or dwelling and our third that of clothing. These require that there should at least be four or five men who would live together and form a city for the satisfaction of these wants, for one may take to husbandry, another to house-building, the third may do weaving and the fourth and fifth may take to making of shoes or to the ministering to our bodily wants. In this way, each of them would place his own work at the disposal of the community and would not do his own business by himself or for himself only, partly because men differ from each other in natural endowments, one being suited for one occupation, and another for another, and partly because of efficiency, that is, everyone would do one work better by applying himself exclusively to it and not

psychological elements. In fact, I am inclined to regard Aristotle's view as a psychological explanation of the origin of the state and it will not be wrong to treat it separately as a *psychological or natural theory of the origin of the state*.

\* "Republic" by Davies (MacMillan, London): I have freely quoted and reproduced from this book to let the student know the ideas of Plato in his own language. All quotations, therefore, must be referred to it.

by dividing his exertions and frittering away his energy among many occupations. This scheme would have the further advantage of finishing a work at the right moment, at the moment when it is necessary, 'for the thing to be done does not choose . . . to tarry, the leisure of the doer, but the doer must be at the back of the thing to be done, and not treat it as a secondary affair.' Thus all things will be produced in superior quantity and quality and with greater ease.

But soon it will become apparent that four or five men will not do in the city, 'for the husbandman, it appears, will not make his own plough, if it is to be a good one, nor his mattock,

Increasing wants.

nor any of the other tools employed in agriculture. No more will the builder make the numerous tools which he also requires and so of the weaver and the shoe-maker.' Thus there will come into being carpenters and smiths, and many other artisans of the kind who will become members of the little state and create a population. To these may be added 'the neatherds and shepherds, and the rest of that class, in order that the husbandmen may have oxen for ploughing, and the housebuilders, as well as the husbandmen, beasts of burden for draught, and the weavers and shoe-makers wool and leather.' With this growth in population and the demand of 'materials' for each profession, the self-sufficiency of the little state will also be affected and it will have to look to other cities for many things that it requires. This would mean not only an increase in the commodities produced within, but also in population for such members will have to be added as go from city to city and exchange things. These are the merchants—indulging themselves in export and import; and if the traffic is by sea they would be doing their business with the help of those trained in navigation. In the state itself, all the professions will exchange their produce in a market and this would necessitate a currency. But even this will not be sufficient, for different men will produce things at different times and it is quite possible that a particular thing may come into the market but there be no exchanger. Hence such people who would find themselves unfit for hard labour would make it a business of their own to remain on the spot in the market and 'give money for goods to those who want to sell, and goods for money to those

who want to buy.' In this way, the retail dealers would spring up in the state, and with them those people will make their appearance who by 'selling the use of their strength and calling the price of it, hire, are called hired labourers.' The little city of four or five men has thus developed into a big community of various professions. 'They will produce corn and wine, and clothes and shoes, and build themselves houses; and in summer, no doubt, they will generally work without their coat and shoes, while in winter they will be suitably clothed and shod. . . . They will live on barley and wheat, baking cakes of the meal, and kneading loaves of the flour. And spreading these excellent cakes and loaves upon mats of straw or on clean leaves and themselves reclining on rude beds of yew or myrtle-boughs, they will make merry, themselves and their children, drinking their wine, wearing garlands and singing the praises of the gods, enjoying one another's society, and not begetting children beyond their means through a prudent fear of poverty or war.' And this life of feasting 'would not be without anything to relish their bread . . . salt, no doubt, and olives and cheese, together with the country fare of boiled onions and cabbage; also a dessert of figs and pease and beans: and they may roast myrtle berries and beech-nuts at fire, taking wine with their food in moderation. And thus passing their days in tranquillity and sound health, they will, in all probability, live to an advanced age, and dying, bequeath to their children a life in which their own will be reproduced.'

This then is the picture of the city which has grown to its full stature. But will this development cease at this limit? Plato thinks—

Not. It will now develop from a mere city to a Growth of luxury. luxurious city—it will not be a mere 'community of swine': it will try to become 'civilized.' 'Some people will not be satisfied, it seems, with the fare or the mode of life which we have described, but must have, in addition, couches and tables, and every other article of furniture, as well as viands and fragrant oils and perfumes, and courtesans and confectionery; and all these in plentiful variety . . . also must set painting and embroidery to work, and acquire gold and ivory and all similar valuables.' This would necessitate an enlargement of our city which had come into existence only to satisfy our natural wants, and now we would have to fill

it with a multitude of callings. Thus we will give place to 'hunters and all who practise imitative arts, including many who use forms and colours, and many who use music, poets also, with those of whom the poet makes use, rhapsodists, actors, dancers, contractors; lastly, the manufacturers of all sorts of articles, and among others those which form part of a woman's dress. We shall similarly require more personal servants—that is to say, tutors, wet-nurses, dry nurses, tire women, barbers, and cooks moreover and confectioners. Swineherds again are among the additions we shall require . . . and we shall also need great quantities of all kinds of cattle, for those who may wish to eat them.' With this increase in every walk of life, the healthy character of the city will decline and we will require medical men. Side by side, we will feel that the extent of the city itself has become very inadequate and insufficient. We will therefore become inclined to 'cut ourselves a slice of our neighbour's territory, if we are to have land enough both for pasture and tillage, while they will do the same to ours, if they, like us, permit themselves to overstep the limit of necessities, and plunge into the unbounded acquisition of wealth.'

We must therefore now have an army which may go forth and do battle with all invaders to our city, but this would be a further addition to the population for the existing men are all busy with their particular professions according to their natural capacities. Moreover, the art of war requires training from childhood according to natural aptitude: a novice will be no good. These guardians, therefore, are not only to be free of all other engagements: they must have extraordinary skill and competence. They must be watch-dogs—'quick to discover an enemy, and swift to overtake him when discovered, and strong also in case they have to fight when they have come up with him. . . . They must be brave, spirited, fearless and unconquerable in the face of any danger.' But among themselves and with the rest of citizens, they should not behave fiercely, that is, they ought to be gentle to their friends, and dangerous only to their enemies just as well bred dogs are gentle to their friends and acquaintance, but the reverse to strangers. They must be trained both in body and mind, in gymnastic and music and other useful

War, army and guardians.

arts. Those who prove themselves of good valour but not of extraordinary intelligence may remain soldiers or auxiliaries, and those that exhibit extraordinary intelligence may become real Guardians. They must be strong, swift, brave, high-spirited and gentle.

In this ideal or imaginary picture of the origin of a full-fledged state Plato has not indulged in mere speculation, he has

**A realistic note for superior leadership.** sounded a realistic note as regards the origin and development of society and state. Starting from the premise that the insufficiency of

man by himself to satisfy his wants leads him to seek company with other fellow men, he definitely shows that the origin of government in a state can be ascribed not only to superior intelligence but also to superior enterprise. Thus in a monarchy or royalty, the king acquires his position by virtue of his superior intelligence and enterprise and as soon as he loses these qualities, his government degenerates into a tyranny. This then is an explanation of the 'cycle of changes' which both Plato and Aristotle have emphasised in the rise and fall of states and governments.

Besides this great truth in his explanation of superior leadership in a community, Plato has also been successful in marking out the

**Correct stages in the evolution of the state.** correct stages in the evolution of the state. As we shall see in the Historical origin of the

state, the first stage of human life, whether primitive or patriarchal, was dominated by the satisfaction of human wants and the character of these societies was moulded by the change in those wants; the second stage was military or feudal in character and the third, which is the modern, represents the dominance of the intellectual element.

But with all these great truths in his view of the economic basis of politics, he sadly ignores other elements of human psychology.

**Criticism.** He simply emphasises the element of 'desire' or 'appetite' in the creation of the com-

munity and ignores the great truth which was later on emphasised by his great successor and disciple (we mean Aristotle), that man by nature is a social being. He is gregarious by instinct and therefore cannot live without society. Plato's analysis, further, seems to acquire an appearance of unreality when he

starts from the individual to form the community, and again it was Aristotle who was the first to expose this fallacy when he maintained that society was prior to the individual who, when he first opened his eyes in this world, found himself in the community.

But in spite of these inaccuracies, we cannot minimise the contribution of Plato to the Science of Politics. His economic basis of

**Plato's contribution.** politics has ever been an influencing factor in the whole history of political thought.<sup>10</sup> Aristotle

made use of it in his study of domestic economy and the management of the state and was the first to show its significance in poverty, crime and revolutions. Machiavelli definitely warns his Prince not to be foolish enough to snatch the property of his subjects for men may forget the death of their fathers but they will not easily forget the loss of their patrimonies. Similarly, Bodin definitely stated that the sovereign should not forcibly seize away the property of his subjects. Locke's civil society was meant for the preservation of property, and More's Utopia was a prescription for economic ills. Harrington was the first in modern times to give an economic interpretation of History which was later on taken up and developed by Karl Marx as the basic principle of the so-called Modern Scientific Socialism.

#### (d) The Social Contract theory:

Of all the theories of the origin of the state, the social contract theory is the only purely speculative theory. By this we mean that

while all other theories have some justification in history this theory completely divorces it. It has no reference to facts: it is purely imaginary.

There are some writers<sup>11</sup> who plead that even the social contract writers had historical facts under their consideration because they

<sup>10</sup> The Economic basis of Politics by C. A. Beard may also prove useful for the study of this economic influence.

<sup>11</sup> H. W. Nevins in 'The Growth of Freedom' (p. 16), while acknowledging Social Contract as an 'imaginary hypothesis,' tries to give Hobbes' theory a historical basis.

constantly refer to the customs and practices of savages, but this is not correct for where the social contract writers have referred to history it is to prove their own point of view which they are presenting rather than to deduce or state general conclusions on the basis of history. They are therefore always drawing mental pictures of what they state of early civilization.

The social contract theory has three essential elements, each of which may be said to represent a stage in the development of civilization and consequently of the state as we understand it. Thus

**Elements of social contract theory.**

- (1) the State of Nature represents an age when man had not organized himself in political society. He was free and independent, obeying no law which could be claimed to have been made by man. If he obeyed anything it was the Law of Nature and he was himself the sole interpreter of that Law. In this stage, he also possessed certain rights which again he held by nature, which were therefore called Natural Rights.

- (2) Then there is a transitional stage in which for some reason or other man decides to quit the State of Nature.

2 The contract. This stage thus represents the process by which he is enabled to give up one way of living for another by making a contract with other men.

- (3) After the contract he transplants himself in the Civil Society where his natural rights have assumed the garb of Civil rights and the Law of Nature has become the law of the state, that is, a law of human imposition.

Hobbes, Locke and Rousseau are the three great *representative* writers of this theory, though there are a host of others who have made use of it. For this theory also, like that of the force theory, has been held and preached from the beginnings of political speculation.

**Hobbes, Locke and Rousseau.**

Thus the Sophists before Plato regarded the civil society as a result of agreement or contract. To them the state with all its institutions was simply conventional and as such hindered the natural play of man's natural faculties. In Crito, we find Socrates declaring that he could not break the laws as he had made an agreement to obey them. Plato and Aristotle also mention this conventional aspect but only to criticize it. In Rome, though we do not find the whole of the contract theory, we yet find its legal system based on the conception of Natural Law which was but a part of this theory. In the Middle Ages, however, the contract is the basis of the feudal system,—between lord and vassal. In the 15th and 16th centuries, men like Buchanan, Althusius, Mariana and Milton adopt it so that it becomes a general argument against all absolutism. It then receives its full exposition in the hands of Hobbes, Locke and Rousseau.

#### 1. The Social Contract theory of Hobbes:

Hobbes' 'Leviathan' was published in 1651. He had thus seen the horrors of Civil War which lasted from 1641—49 in which Charles I was beheaded. His great purpose,

1. The problem before him. therefore, was the justification of absolutism. The problem before him thus came to be the establishment of order and authority. But how should he attempt this? The divine basis of authority was no longer in the air. Writers were using the Social Contract theory as an argument against all absolutism. Hobbes therefore decided to meet the anti-monarchists on their own grounds and hence utilized the Contract theory to prove absolutism. Thus the two great purposes which led him to write his book were not only the establishment of order but also the assailing of liberty.

In this task, naturally he had to take a glimpse of the state of civilization before the rise of the Civil Society. And as he had already seen the condition of England in the Civil War, he is led to paint the picture of early society in such a way that he might be able to justify an absolutism which would keep up order and security in the land.



Thus to him the State of Nature<sup>12</sup> is a state of war. Men are by nature equal. Even if there be stronger people than others, the weaker can kill them by tricks and machinations.

**2. The State of Nature.** This equality of men results in a demand for an

equal appropriation of things, thus producing competition. A spirit of distrust comes into being and the result is rivalry. Rivalry creates the spirit of acquiring glory for reputation. Hence there arise three causes of war among men—competition, distrust and glory. Thus without a civil state men live in awe and continual state of war of every man against every man. "In such condition there is no place for industry because the fruit thereof is uncertain and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea, no commodious building; no instrument of moving and removing such things as require much force; no knowledge of the face of the earth: no account of time; no arts; no letters; no society; and, which is worst of all, continual fear and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short." Thus the only governing law in the life of the State of Nature is the law of the sword. The notions of right and wrong, justice and injustice have no place. Mine and thine are not distinct. Force and fraud are the cardinal virtues. In short, man is not a social but a quarrelsome being.

In this State of Nature, every man has natural rights. The Right of nature<sup>13</sup> is the liberty each man has, to use his own power,

**3. Natural rights.** as he will himself, for the preservation of his own nature, that is, of his own life and consequently of doing anything which in his own judgment and reason, he shall conceive to be the aptest means thereunto. Liberty is the absence of external impediments. Hence in the condition of war every man has a right to everything. His three most valuable rights are safety of person or life, property, and liberty to defend himself from aggressions.

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<sup>12</sup> *Leviathan* (Morley's Universal Library), Ch. XIII, pp. 63—65. All further references to '*Leviathan*' in this chapter must also be referred to this edition.

<sup>13</sup> *Leviathan*, Ch. XIV, pp. 65-66.

Further, in this State of Nature, there are Laws of Nature. A Law of Nature<sup>14</sup> is a precept found out by Reason by which he avoids

**4. Laws of Nature.** what is harmful to his life and thinks of best preserving it. Hobbes gives nineteen such laws, among them the following are specially significant:

- (1) To seek peace and follow it.
- (2) To defend oneself by all means that he can muster forth for his defence in this state of war.
- (3) Men perform their covenants made, for if one is willing for peace, others should also be inclined to do the same. This involves either renouncing or transference of right to all things, that is, a limitation of being contented with so much liberty against other men, as he would allow other men against himself. It is this mutual transference of Right which men call contract (but they would not transfer the three valuable rights of life, liberty and property).

But why do men decide to quit the State of Nature and seek peace? Because certain 'passions'<sup>15</sup> are driving them towards it. They are

**5. Forces behind the contract.**

- (i) fear of violent death every moment;
- (ii) desire of such things as are necessary for commodious living;
- (iii) and a hope by their industry to obtain them;
- (iv) and Reason suggests convenient 'Articles of Peace' upon which men may be drawn to agreement. These articles are the Laws of Nature which are eternal and immutable.

Thus the final cause which moved men was the foresight of their own preservation and of a more contented life by doing away the natural condition of war. This would be mitigated only when they would be under some visible power to keep them in awe and in the observance of the Laws of Nature.

<sup>14</sup> Leviathan, Ch. XIV, p. 66.

<sup>15</sup> *Ibid.*, Ch. XIII, p. 65.

The only way to create such a common power is not a combination of some or a multitude of them, but to confer all their power and strength upon one man or upon one

**6. The contract.** assembly of men that may reduce all their wills, by plurality of voices, into one will. It is more than consent or concord. It is covenant in this form as if every man should say to every man '*I authorise and give up my right of governing myself to this man or assembly of men on this condition that thou give up thy right to him (or to this assembly of men) and authorise his (its) actions in like manner.*'<sup>16</sup>

This done, that is, the contract having been made, the multitude so united in one person, is called a Commonwealth (Leviathan).

The government thus set up must have absolute power or sovereignty over the actions of the governed and the latter by their own act have lost not only the power, but even the right to question or resist. Hence whatever the arbitrariness of the sovereign, the people will have to obey because his act is their act, and moreover, he is beyond the contract, being *no party* to it.

Thus, in Hobbes' view, was the Civil society created and this is his view of the origin of the state.

## 2. The Social Contract theory of Locke:

When Locke wrote his 'Treatises on Civil Government,' the Glorious Revolution (1688) in England had been accomplished.

Parliamentary Government had been established under William and Mary. He thus appears as an apologist of Constitutionalism or of limited monarchy. The problem before him was therefore the justification of liberty. With this end in view, he also takes up the social contract theory with all its elements and tries to justify the English Revolution of 1688 which had come and gone without any disorder in the kingdom. Thus his picture of the State of Nature must necessarily be radically opposed to that of Hobbes who had witnessed the horrors of Civil War—a state in which there was no strong central government.

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<sup>16</sup> Leviathan, Ch. XVII, p. 84.

The State of Nature,<sup>17</sup> to Locke, is a state of *perfect freedom* where the individuals have no check on their actions and they can dispose of their possessions and property as they think fit, of course within the bounds of the Law of Nature, but in no sense depending upon the will of any other man.

**2. The State of Nature is:**

(i) Of freedom.

It is also a state of *equality* wherein all the power and jurisdiction is reciprocal and all have been born to the same advantages of nature.

(ii) Of equality.

Though a state of liberty, it is *not a state of licence*. Having an uncontrollable liberty to dispose of his person or property, he has not the liberty to destroy himself or kill other human beings. Everyone has the power of restraint or reparation for the good of mankind.

(iii) Not a state of licence.

It is a state of *peace, goodwill, mutual assistance and preservation*, and not a state of war—of enmity, malice, violence and mutual destruction. It is however a state of *inconvenience* for man in his own case and that of his friends because of self-love becomes partial to himself and his friends, and in enmity with others, passion and revenge carry him too far. Thus confusion or disorder is the rule. Men thus living together without a common superior and judge are living in the State of Nature and each of them possesses natural rights of life, liberty and property.

(iv) A state of peace, though of inconvenience.

This State of Nature has a Law of Nature to govern it which obliges everyone: and reason, which is that law, teaches all mankind that being all equal and independent, no one ought to harm another in life, health, liberty or possessions. Everyone as he is bound to preserve himself ought, as much as he can, to preserve the rest of mankind. And that all men may be restrained from invading others' rights, and from doing hurt to one another, and the Law of Nature be observed, which willeth the peace and preservation of all mankind, the execution of the Law of Nature is put into every

**3. The Law of Nature.**

<sup>17</sup> Locke: Of Civil Government, Book II, Ch. II.

man's hand, whereby everyone has a right to punish the transgressors of that law to such a degree as may hinder its violation.

If such is the character of the State of Nature, why do the individuals decide to quit it? Because the enjoyment of one's

**4. Forces** property is very uncertain and constantly exposed  
**behind the** to the invasion of others. It is very unsafe, very  
**contract.** insecure.<sup>18</sup> It lacks

(i) an established, settled, known law, received and allowed by common consent to be the standard of right and

(i) Lacks known wrong and the common measure to law.

decide all controversies between them, for though the Law of Nature be plain and intelligible to all rational creatures, yet men being biased by their interest, as well as ignorant for want of study of it, are not apt, to allow of it as a law binding to them in the application of it to their particular cases.

(ii) a known and indifferent judge with authority to determine all differences according to the established law:

(ii) No indifferent both judge and executioner of the judge.  
Law of Nature. men being partial to

themselves, passion and revenge are very apt to carry them too far, and with too much heat, in their own cases, as well as negligence and unconcernedness, to make them to remiss in other men's.

(iii) Lacks supreme (iii) power to back and support the sentence when right, and give it due execution.

Hence the two powers, that is, doing whatever one thinks fit for the preservation of property and punishing the aggressor are given to the community at large to be directed to no

**The contract:** other end but the peace, safety and public good of  
(a) Social, as the people. This is an agreement of the whole  
creating a community. people resulting in the creation of the Civil Society, but not the government which requires another contract with

<sup>18</sup> Locke: Of Civil Government, Book II, Ch. IX.

an 'individual' from among themselves with express and limited powers to be used for the common good. Thus in

(b) Governmental, as creating a government. Locke, there is first of all a 'social contract' which

explains the origin of the state or body politic and then there is a 'Governmental compact' which sets forth the creation of a government.

### 3. The Social Contract theory of Rousseau:<sup>19</sup>

Rousseau's 'Social Contract' was published in 1762. The France of his time was groaning not only under a corrupt monarchy, but the whole social system of that country was a sort

1. The problem of tyranny. The common people had to pay taxes before him. to the government, tithes to the clergy and exactions to the nobles and they had further to do what we call 'begár' (or forced labour) and which in France was called 'corvee.' Thus both the social and political institutions of France appeared horrible to Rousseau who thought of overhauling them in the interest of order and justice. In this way the problem before him was not simply the winning of 'liberty' against a tyrannous rule: but also to provide a sound system of control and authority. that is, he had to reconcile order and liberty.

With this end in view, he also makes use of the 'social contract' which was the prevalent mode of expressing political opinion. But

2. His use of 'State of Nature.' in the book which he calls 'Social Contract' we do not find any details of the State of Nature. He

begins with the remark that 'man is born free; and everywhere he is in chains.'<sup>20</sup> This is because he had stated his view of the State of Nature in another essay which he calls 'A dissertation on the origin and foundation of the Inequality of mankind.' This discourse Rousseau divides in two parts—Part I, dealing with the 'free man' and Part II, with his 'chains,' so that both of

<sup>19</sup> Here also I have freely and fully quoted and reproduced from Mr. G. D. H. Cole's Edition of Social Contract as I have already done in the previous pages in this Chapter from the respective books of Hobbes and Locke. Hence whether cited or not the detailed account of the State of Nature (in Rousseau) refers to Mr. Cole's book. This I have done, in each case, not simply to draw the attention of the student to the 'Original,' but also to maintain sometimes (even at the cost of unnecessary detail) the charm and beauty of the graphic account in the author's own words.

<sup>20</sup> Social Contract, p. 5.

them taken together constitute but an introduction to his 'Social Contract.' It was Rousseau's belief that the primitive man was far better than the civilized and that all his present ills are his own creations and that the future was still worse. Thus he says, "O man, of whatever country you are, and whatever your opinions may be, behold your history, such as I have thought to read it, not in books written by your fellow creatures, who are liars, but in nature, which never lies. The times of which I am going to speak are very remote: how much are you changed from what you once were? There is, I feel, an age at which the individual man would wish to stop: you are about to inquire about the age at which you would have liked your whole species to stand still. Discontented with your present state, for reasons which threaten your unfortunate descendants with still greater discontent, you will perhaps wish it were in your power to go back; and this feeling should be a panegyric on your first ancestors, a criticism of your contemporaries and a terror to the unfortunates, who will come after you."<sup>21</sup>

Thus Rousseau idealises the State of Nature as against the so-called 'civilization' which he regards the 'chains' of man. *He goes against the view of Hobbes and tries to completely invert the position held by that writer.*

In his conception of the State of Nature, Rousseau seems to mark out several stages<sup>21\*</sup> which one by one resulted in the progress from one to another till man found himself in a position from where he could not retrace his steps. This progress to him represents each stage in the fall of man.

### 3. The State of Nature and its stages.

(1) Thus in the first stage he considers man 'just as he must have come from the hands of nature'—'an animal weaker than some,

(i) Man healthy and strong having a life of pure sensations. and less agile than others, but, taking him all round, the most advantageously organized of any; satisfying his hunger at the first oak, and slaking his thirst at the first brook; finding his bed at the

<sup>21</sup> Social Contract, p. 176

<sup>21\*</sup> The student may with advantage consult Willoughby 'The Ethical basis of Authority' where he quotes Prof Lovejoy's interpretation of the several stages of Rousseau's State of Nature.

foot of the tree which afforded him a repast, and, with that, all his (as directed) wants supplied.<sup>22</sup> Living dispersed with other animals naked and unarmed, accustomed to inclemencies of the weather and the rigour of seasons, he was robust, vigorous, healthy and strong. He had no need of medicines or of physicians. Just as animals are depraved by domestication, in the same way man grows weak, timid and servile by becoming sociable and slave. He loses both his strength and courage. In the natural state, the savage man is directed solely by instinct and the only goods he recognizes in the universe are food, a female and sleep: the only evils he fears are pain and hunger. His imagination paints no pictures: his heart makes no demands on him. His few wants are so readily supplied, and he is so far from having the knowledge which is needful to make him want more, that he can have neither foresight nor curiosity. His soul, which nothing disturbs, is wholly wrapped up in the feeling of its present existence, without any idea of the future, however near at hand: while his projects, as limited as his views, hardly extend to the close of the day. His life therefore was a life of pure *sensations* and no knowledge. Thus in this primitive state man had neither houses, nor huts, nor any kind of property whatever; everyone lived where he could, seldom for more than a single night; the sexes united without design, as accident, opportunity or inclination brought them together, nor had they any great need of words to communicate their designs to each other; and they parted with the same indifference. Even mothers forgot their own children after they had reached manhood. Thus, man in the State of Nature having neither moral relations nor determinate obligations one with another, could not be either good or bad, virtuous or vicious. It was not miserable, for how can it be to a free being whose heart was at ease and whose body was in health. It was best calculated to peace and the most suitable for mankind because of the peacefulness of the passions and the ignorance of vice. There was no egoism: on the contrary, there was compassion which by moderating the violence of love of self in each individual, contributes to the preservation of the whole species. It is this which in the state of Nature supplies the place of laws, morals and virtues, with the advantage that none are tempted

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<sup>22</sup> Social Contract, p. 177.



to disobey its gentle voice. With passions so little active, and so good a curb, men being rather wild than wicked, and more intent to guard themselves against the mischief that might be done them, than to do mischief to others, were by no means subject to very perilous dissensions. They maintained no kind of intercourse with one another, and were consequently strangers to vanity, deference, esteem and contempt; they had not the least idea of meum and tuum, and no true conception of justice and even in the relation of sexes which is often the cause of terrible passion that braves all danger and surmounts all obstacles. they followed solely the character nature has implanted in them, and not tastes which they could never have acquired, so that every woman equally answered their purpose.

In short, man in the State of Nature wandered up and down the forest, without industry, without speech, and without home, an

Man's simplicity. equal stranger to war and to all ties, neither standing in need of his fellow creatures nor having any desire to hurt them, and perhaps not even distinguishing them one from another. Being self-sufficient and subject to so few passions, he could have no feelings or knowledge but such as befitted his situation; that he felt only his actual necessities, and disregarded every thing he did not think himself immediately concerned to notice, and that his understanding made no greater progress than his vanity. If by accident he made any discovery, he was the less able to communicate it to others, as he did not know even his own children. Every art would necessarily perish with its inventor . . . and generations succeeded generations without the least advance; when, all setting out from the same point, centuries must have elapsed in the barbarism of the first ages; when the race was already old, and man remained a child.

This, in Rousseau's view, is the true picture of the State of Nature where everyone is his own master and is equal and free. This is, in his view, the ideal period of human existence and he treats it in detail because of the *ancient errors and inveterate prejudices required, digging down to their very root.*<sup>28</sup>

<sup>28</sup> Social Contract, pp. 203-204. Compare Hobbes' view of the state of Nature which I have already presented.

By this he means, that he has completely ~~overthrown~~ <sup>thesis</sup> ~~the~~ <sup>of</sup> the State of Nature as a state of war.

The other stages of the State of Nature he states in Part II of 'The Origin of Inequality.' Here he states how the wants of man increased, how he became conscious of them and

**(2) Increase of wants and rise of property.** how he began to call things as his own. All these mark different stages in his depravation and degradation. "The first man who, having enclosed a piece of ground, bethought himself of saying: This is Mine: and found people simple enough to believe him, was the real founder of civil society." Had he been retorted by someone by crying out to his fellows. "Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody," the world might not have seen this Fall of man. But, says Rousseau, things might have come to such a pitch that they could no longer continue as they were for the idea of property involves several prior stages as it is the *last point of the State of Nature*.

Thus the second stage begins with certain difficulties which might have presented themselves and which man might have tried to surmount,—the height of the trees which prevented him from gathering their fruits, the competition of other animals desirous of the same fruits and the ferocity of those who needed them for their own preservation, all obliged him to apply himself to bodily exercises. He had to be active, swift of foot and vigorous in fight. Natural weapons, stones and sticks, were easily found: he learnt to surmount the obstacles of nature, to contend in case of necessity with other animals and to dispute for the means of subsistence even with other men or to indemnify himself for what he was forced to give up to a stronger.<sup>24</sup>

(3) The third stage was ushered in by the growth of population which might have increased men's cares. The differences of soil, climates and seasons must have introduced some differences in the manner of living. Barren years, long and sharp winters, scorching summers which

**(3) Growth of population.**

<sup>24</sup> Social Contract, p. 246

parched the fruits of the earth, must have demanded a new industry. Hence the rise of fishermen on the banks of rivers and seashores with their hook and line, of hunters in their forests with their bows and arrows. The skin began to be used in cold countries for wrapping the body and lightning or volcano made them acquainted with fire—a means not only against cold, but also useful in cooking. This variety of life came into being, giving rise to such notions as great, small, strong, weak, swift, slow, fearful and bold, and man must have gained a kind of reflection as to the necessary precautions for security. This new intelligence increased his superiority over other animals and he began to catch them, ensnare them and kill them, so that he came to be the master of some and scourge of others. Thus he felt the *first emotion of pride* in him. Side by side his observations of the like doing by other men must have impressed upon him the uniformity of his life with them and the advisability of following his life in the way he did. This explains the origin of the rules of conduct as necessary for security and advantage of all. But it is not necessary yet that there should be a common language. Inarticulate cries, plenty of gestures and some imitative sounds might have been quite sufficient for his purposes, and a multitude of ages must have passed in this way of living.

(4) These first advances enabled men to make others with greater rapidity and thus the fourth stage in the State of Nature was reached. In proportion as they grew enlightened,

**(4) Growth of** they grew industrious. They ceased to fall asleep  
**Luxury.** under the first tree, or in the first cave that afforded them shelter; they invented several kinds of implements of hard and sharp stones, which they used to dig up the earth and to cut wood; they then made huts out of branches and afterwards learnt to plaster them over with mud and clay. This was the epoch of a first revolution which established and distinguished families and introduced a kind of property, in itself the source of a thousand quarrels and conflicts. The habits of living together soon gave rise to the finest feelings known to humanity, conjugal love and paternal affection. The simplicity and solitude of man's life in this new condition and the paucity of his wants still left him a great deal of leisure. But his utilising it in providing *further conveniences* was

the first yoke he inadvertently imposed upon himself and the first source of the evils he prepared for his descendants. This common life further gave him the common idiom of expression, and hence the common language of communication.

(5) Thus everything began to change its aspect and the fifth stage opened. Men became united in nations, if not under one

**(5) The period of moderation and, therefore, the best period.** government, at least united in characters and manners. They began to differentiate and compare and feelings of preference came into existence. With love arose jealousy, with discord,

fury and the ideas of value and public esteem made their appearance. From such distinctions arose vanity and contempt, and shame and envy and the fermentation caused by them ended by producing combinations fatal to innocence and happiness. Morality and punishments became necessary. Thus, though men had become less patient and their natural compassion had already suffered some diminution, this period of expansion of the human faculties, keeping a just mean between the indolence of the primitive state and the petulant activity of our egoism, must have been the happiest and most suitable of epochs. The least subject to revolutions and altogether the very best man could experience he must have departed from it only through some fatal accident which for the public good should never have happened.

Thus though Rousseau regards this stage as the best in the State of Nature, it does not mean that it is the pure State of Nature.

Though the best, it is not the ideal stage. The pure state is one in which man has only instinct, not reason; and he is living an animal existence. It is, in fact, the ideal existence, and

Rousseau himself points out its blessings and advantages to Hobbes again and again. Why then, it may be asked, he regards this stage as the best? The answer is that much as he must have desired man to have remained in the earliest stage, he finds that man was forced to leave that state of happiness, innocence and simplicity owing to uncontrollable causes. Hence he says that with the rise of families and huts, etc., man had no further need of advance and it was time that he might have cried halt, but to his great despair, it was not to be so. For up to this stage man had not lost much of his

original happiness. Rousseau himself lamentably puts up his feelings thus:—

“So long as men remained content with their rustic huts, so long as they were satisfied with clothes made of the skins of animals and sewn together with thorns and fishbones, adorned themselves only with feathers and shells, and continued to paint their bodies with different colours, to improve and beautify their bows and arrows and to make with sharp-edged stones fishing boats or clumsy musical instruments; in a word, so long as they undertook only what a single person could accomplish, and confined themselves to such arts as did not require the joint labour of several hands, they lived free, healthy, honest and happy lives.”<sup>25</sup>

But from the moment one man began to stand in need of the help of another, *from the moment it appeared advantageous to any*

The parting of the one man to have enough provisions for two, *ways.* equality disappeared, property was introduced, work became indispensable and vast forests became smiling fields, which man had to water with the sweat of his brow, and when slavery and misery were soon seen to germinate and grow up with the crops. Thus this period of limited wants and individual self-sufficiency marks the parting of the ways in man's development. It was the last stage in the evolution of the State of Nature. Beyond this, Rousseau did not like man to go, and specially *he did not favour the course he followed*, for it was this which threw him headlong into a state of war and miseries. In this way, Rousseau completely upturns the thesis of Hobbes proving that it was the civil society which was a state of war, and not the State of Nature which was an era of human felicity. He, however, suggests another means of getting a better life which he deals in his ‘Social Contract’—a life in which, in spite of civil society, man would remain *as free as before and would perhaps gain in several respects*. Hence the Social Contract ought to have been made when it was found that life in the happiest period of the State of Nature was perforce becoming complicated, and now it could be made even in the present society which thus required overhauling. In this way Rousseau comes to be the Philosopher

<sup>25</sup> Social Contract, p. 214.

of the French Revolution which came in to destroy the existing inequalities and establish liberty, equality and fraternity.

(6) Thus the sixth stage of human development takes man out of the State of Nature and places him in Civil Society. Metallurgy and agriculture were the two arts which produced this great revolution. Gold and silver, or iron and corn which first civilized men, ruined humanity. The arts of husbandry and agriculture were established and with them the art of working metals made progress, and manual labour produced property. Inequalities came into being. Behold then all human faculties developed, memory and imagination in full play, egoism interested, reason active, and the mind almost at the highest point of its perfection. Behold all the natural qualities in action, the rank and condition of every man assigned him; not merely his share of property and his power to serve or injure others, but also his wit, beauty, strength or skill, merit or talents: and these being the only qualities capable of commanding respect, it soon became necessary to possess or to affect them. Thus men began to appear what they were not. Free and independent as men were before, they were now, in consequence of a multiplicity of new wants brought into subjection, as it were, to all nature and particularly to one another; and each became in some degree slave even in becoming the master of other men: if rich, they stood in need of the services of others; if poor, of their assistance; and even a middle condition did not enable them to do without another.

It is to this stage and condition that Rousseau refers when he begins his 'Social Contract' with the words, "Man is born free and everywhere he is in chains. *One thinks himself the master of others, and still remains a greater slave than they,*"<sup>20</sup> and when he says 'I suppose men to have reached the point at which the obstacles in the way of the preservation in the State of Nature show their power of resistance to be greater than the resources at the disposal of each individual for his maintenance in that State. That primitive condition can then subsist no longer; and the human race would perish unless it changed its manner of

<sup>20</sup> Social Contract, p. 5.

existence.' And it did not change its mode of existence and thus landed itself in a state of war. For with the rise of property, differentiation of functions and consequent inequalities, there arose rivalry and competition on the one hand and conflicting interests on the other, together with a secret desire of profiting at the expense of others. Usurpations by the rich, robbery by the poor and the unbridled passions of both, suppressed the cries of natural compassion and the still feeble voice of justice, and filled men with avarice, ambition and vice. The new-born state of society thus gave rise to a horrible state of war; men thus harassed and depraved were no longer capable of retracing their steps or renouncing the fatal acquisitions they had made, but labouring by the abuse of the faculties which do them honour, merely to their own confusion, brought themselves to the brink of ruin. Reflecting on this wretched condition (which Rousseau paints gloriously), the rich must have specially felt the uncertainties of this state of war and therefore must have agreed along with others to collect themselves under a supreme power and all must have run 'headlong to their chains.' Such was, or may well have been the origin of society and law, which bound new fetters on the poor, and gave new powers to the rich; which irretrievably destroyed natural liberty, eternally fixed the law of property and inequality, covered clever usurpation into unalterable right, and for the advantage of a few ambitious individuals, subjected all mankind to perpetual labour, slavery and wretchedness.

Mankind having thus thrown itself into this abject condition in what way could it come out of it? Or, as Rousseau puts it, "the

**The contract.** problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before."<sup>27</sup> And the "Social Contract" provides the solution. The clauses of this 'common agreement' may be reduced to one—the total alienation of each associate, together with all his rights, to the whole community, and in detail may be set forth thus:

<sup>27</sup> Social Contract, p. 14.

- (1) As each gives himself absolutely, the conditions are ~~the~~ same for all; and this being so, no one has any interest in making them burdensome to others.
- (2) Moreover, the alienation being without reserve, the union is as perfect as it can be, and no associate has anything more to demand.
- (3) Finally, each man, in giving himself to all, gives himself ~~to nobody~~; and as there is no associate over whom he does not acquire the same right as he yields others over himself, he gains an equivalent for everything he loses, and an increase of force for the preservation of what he has.

In this way, "*each of us puts his own person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole.*" At once, in place of the individual personality of each contracting party this act of association creates a moral and collective body, composed of as many members as the assembly contains votes, and receiving from this act its unity, its common identity, its life and its will. This public person, so formed by the union of all other persons formerly took the name of city, and now takes that of Republic or body politic; it is called by its members *State* when passive, *Sovereign* when active, and *power* when compared with others like itself. Those who are associated with it take collectively the name *people*, and severally are called *citizens*, as sharing in the sovereign power, and *subjects* as being under the laws of the state.

Such, in fine, is Rousseau's explanation of the origin of the state.

Thus the Social Contract theory, however we may regard it as true or false, has always been the most stimulating and interesting topic in the history of political thought, and all the energies spent on it have not been in vain. It has proved valuable in emphasizing the elements of 'Consent and Will' as the basis of the legitimacy of all governments. It emphasized the value of human freedom and the part every indivi-



dual has to play in the making and marking of his own destiny, and in this way brought in the democratic conception of life and government. It further emphasized the moral basis of political obligation as against the physical power of the force theory so that it has in many ways proved useful in political thought and life.

We do not recognize it as offering a true explanation of the origin of the state, because it cannot stand scientific criticism and because, its assumptions have never had any realities.<sup>28</sup>

#### Criticism.

Thus, as a historical explanation of the origin of the state, it is false for early life was not individualistic, and wherever we have found ancient and primitive societies, they have always been seen living in groups. Early life was communal in character.

1. Historically false.

Secondly, it makes the state a manufacture. created so to say, in the twinkling of an eye. This is not true. The state is the result of a process of growth, involving stages which have come one after the other. It is, so to say, the product of the wisdom of our ancestors. Hence it is to be in no sense the plaything of the individual, depending upon his whims and caprices, and in this sense the whole theory is dangerous.

2. It is mechanical and dangerous.

Thirdly, it is illogical because rights cannot exist without a society and in the State of Nature there was no society. Whatever existed there was simply power, not right. T. H. Green thus rightly observes that the real flaw in the theory of contract is not that it is unhistorical but that it implies the possibility of rights and obligations independently of society.<sup>29</sup>

Lastly, it is impossible since every contract involves a power behind that contract which will enforce its due performance. There was no such power in the State of Nature. The theory thus expects too much of moral obligation from individuals who had not even learnt the A. B. C of social code.

3. It is illogical.

4. It is impossible.

<sup>28</sup> I have not given a separate criticism of the theory of each writer because it would have still more lengthened this topic.

<sup>29</sup> T. H. Green's Political Obligation (Contents, p. xi).

(e) The Evolutionary or Historical Theory:

Having seen the theories which we have come to regard either as false or inadequate, but by no means valueless, we may now study

**The correct theory.** the historical theory<sup>30</sup> which is considered to offer a correct and true explanation of the origin of the state. According to this theory, the state is neither divinely ordained nor the result of contract, not even simply the result of force or mere economic necessities: it is an historical growth from a period of savagery or barbarism. It is in this primitive life and institutions that we find the real beginnings of the state. Hence several stages can clearly be marked out in its evolution.

The anthropological researches have proved that, in the earliest period, men roamed over the earth in bands, living an animal-like

**(1) The Primitive Institutions: Matriarchal theory.** existence. McLennan and Morgan regard this as the lowest stage of savagery. Hence the first social unit was the 'horde' or 'pack' rather than the family or a tribe of Maine as resulting from a common ancestor. Bachofen in 1860 had maintained the existence of a primordial promiscuity in sexual relations and a subsequent development of a matriarchate or a polity dominated by females.<sup>31</sup> He had based his generalisations on classical mythology and tradition.

But certain other scholars began an evolutionary approach to historical sociology—among them Lubbock, McLennan, Spencer,

**Other evolutionary scholars.** Post, Lippert, Tylor. Morgan. Andrew Lang, Robertson Smith. Frazer and Brinton being the most important. They reached results disruptive of the position of Maine. The monogamous family shows a slow but distinct development from original promiscuity, and the family of an type is a late product developing within the older kinship or gentile organization of society.<sup>32</sup>

<sup>30</sup> Though use has been made of other sources which have been indicated at their proper places, I am specially indebted for this Chapter to E. Jenk's "History of Politics" (The Temple Primers Series) and its improved and revised form the 'State and Nation' which I consider as perhaps the only existing good books which deal with the historical material in a short and readable compass. I hope, therefore, every student will make it a duty to read at least the 'State and Nation' in the original, for the 'History of Politics' is now out of print.

<sup>31</sup> H. E. Barnes: Sociology and Political Theory, p. 46. <sup>32</sup> *Ibid.*, p. 48.

Besides, a new school began a scientific study of primitive cultural areas, among them Cunow, Brown, Thomas, Rivers, Seligman, Roscoe, Lowie, Kroeber, Goldenweiser, Dixon and Goddard are noteworthy.<sup>33</sup> Though **A new Scientific school.** Westermarck following the old method had already proved inaccurate the assumption of a primitive promiscuity, the critical study of these writers established the following conclusions:

- (1) That the gentile society was not universal.
- (2) Where it existed, there was no tendency of changing from maternal to a paternal basis.
- (3) There was no evidence that matriarchy was connected with lower culture and patriarchy with higher; and that
- (4) Totemism and exogamy were not necessarily connected with one another.

Thus says Lowie, "There is no fixed succession of maternal and paternal descent; sibless tribes may pass directly into the matrilineal or the patrilineal condition; if the highest civilizations emphasize the paternal side of the family, so do many of the lowest, and the social history of any particular group cannot be reconstructed from any generally valid scheme of social evolution but only in the light of its known and probable cultural relations with neighbouring peoples."<sup>34</sup>

To the Evolutionary school, however, the horde or pack, that is, a 'totem group' is the first stage in social evolution and not the family or tribe claiming descent from a common ancestor (though the Scientific or Critical school believes that either of them could and did exist). **The Evolutionary school and 'totem' group.** |The 'totem' group is primarily a body of persons distinguished by the sign of some natural object such as an animal or tree. Thus there were Snake totems, Mango totems and what not. The Ojibwas and Iroquois in America had Bear and Wolf totems and in India, the Oraons of Chota Nagpur had Iron and Salt totems. They could not even intermarry, so that 'snake' could not marry 'snake,' and

<sup>33</sup> H. E. Barnes: *Sociology and Political Theory*, p. 48.

<sup>34</sup> Lowie: *Primitive Society*, p. 185.

'mango' another 'mango.' The Critical school, however, does not believe in the universality of this practice.

The word 'totem'<sup>35</sup> is derived from 'Ototeman' which means 'his brother sister kin.' It was introduced in England by Lang as

The word *totam* and Peter Jones used it in the sense of a Totem.' band of kinship, real or fictitious. The North American and Australian conditions have exhibited the following characteristics of totemism:

- (1) Bands of men united in kinship, real  
Its characteristics. or fictitious.
- (2) Each band distinguished by the name of some animal, plant or some other natural object.
- (3) The 'object' giving the name is regarded as related to the totem in some mysterious way.
- (4) This object, further, is subject to religious or quasi-religious emotion, and every individual is subject to taboos or prohibitions. It cannot be injured, eaten, killed or destroyed except on occasions of ceremony or in self-defence.
- (5) The members of the totem are entitled to mutual defence, protection and resentment of injuries. They may not marry or have sexual intercourse within the totem.

**Various views on the origin of Totemism.** While these are the common characteristics of totemism, there is no unanimity as to its origin.

Hill-Tout believes that an American young man would go into the woods and fast for days in order to acquire a guardian spirit which usually took the form of an animal. He then revered it and made it a symbol of his life. Fraser first held that the totem group was a society for the multiplication by magical ceremonies of the totem animal or vegetable and so for ensuring a continuance of provision for food and prosperity, but following Spencer, Gillen and Rivers, he says that it arose as an explanation of conception or child-birth. Pregnancy was thought to be the result of spirit animals or

<sup>35</sup> See Hastings: Encyclopaedia of Religion and Ethics.

spirit fruits. Andrew Lang finds its origin in the search of names, while Haddon believes the abundance of a particular plant or animal at a particular place the cause of the name of the totem after it. Durkheim considers totemism as a religious institution, magical and ceremonial.

Life in the totemic stage is crude and barbarous. Men live naked in huts or caves and eat the products of earth in their original

**Totemic life.** state without cooking them, though in some cases they know the use of fire also. Their tools and instruments are usually of wood or stone and they resort to tattooing of body to drive away the spirits or enemies. Thus their universe is full of spirits which live on trees and stones. The fall of a tree marks the anger of the tree spirit and therefore that path becomes forbidden, that is, it becomes a taboo. Hence the need of soothsayers and magicians is greatly felt so that the whole view of their religion is what we call Fetishism or Animism. In their marriage relations, there exists exogamy, and not endogamy—a fact which is now disputed by the Critical school—and, as we have already seen, a snake cannot marry another snake just as in India we find a Banerji never marrying a Banerji. The Australian woman could marry several thousand miles of husbands. Howard notes two types of marriages in this period. The *Nair type* is that in which the woman lives in her own totem and freely chooses husbands from other totems. Hence father is usually unknown and is therefore irresponsible. Descent is traced through mother and the whole period comes to be known as Matriarchy or of 'mother right.' The *Tibetan type* is one in which she is married to several brothers though associated with the name of the eldest. This is called Polyandry and is specially found in Ceylon, Tibet, Assam and the Nilgris. The marriage of the Pandavas in Ancient India was of this type.

But Westermarck, as we have already said, does not believe in this general promiscuity. He believes that monogamy was the

**Westermarck and general promiscuity.** general rule in practice, if not in theory, and he gives reasons for his view. Zoologically, he says, a definite system of pairing is usually to be found among higher animals: physiologically, promiscuity tends to produce

infertility; psychologically, sexual jealousy makes it impossible; and biologically, man's long infancy requires protection and care. Thus the totemic period is a period of 'mother rule' and there the mother and her kindred bring up children.

According to the Evolutionary school this is the second stage of social development,<sup>86</sup> but the Critical school regards it as existing parallel to the matriarchal organization. Its distinguishing features are:

**(2) The Patriarchal Society:**  
Its characteristics.

(1) *Male Kinship* is the leading fact, not kinship through woman. Descent is traced from a common ancestor and adoption is also practised.

(2) *Permanent marriage* is the rule, whether monogamy or polygamy, but not the temporary or casual union of primitive society.

(3) *Paternal authority* is well established. The male ancestor controls not only the business affairs of the group, but also its religion and its conduct. He has even powers of life and death, such as the 'Patria potestas' had in Rome. The Jewish tribes, the Greeks, the Arabs and the Hindus and Muslims of Northern India all belong to this type of society. In the society of Wales a youth under fourteen is 'at his father's platter, and his father lord over him, and he is to receive no punishment but that of his father, and he is not to possess a penny of his property during that lifetime.'

Two stages can be easily marked in the development of the Patriarchal society—the tribe and the clan. The tribe is the larger group consisting of several hundred individuals

**Stages of Patriarchal society.** descended from a common ancestor, real or fictitious. The clan is a much smaller body consisting of three or four generations only in descent from a common well known ancestor and breaking up automatically in new clans. The old theory of a single family or household or group

<sup>86</sup> I have deliberately accepted the stages of Evolutionary school as the basis of the origin of the state for Sociologists themselves do not yet agree on the findings of the Critical school; but as the latter cannot be ignored I have thought it desirable to mention their criticism wherever necessary.

of descendants of a living man is now exploded.<sup>37</sup> According to it, on the death of the house-father, sons set up a separate household. These households would form a clan and when it would still grow, it would become a tribe. Skene was the first to point out this mistake.

To him the tribe is the oldest, its break-up resulting in clans which in turn give rise to households till the individual becomes the unit of society.

Giddings offers four possible explanations of the origin of the tribe and the clan.<sup>38</sup> To him

- (1) either the clans are older than tribes and tribes originate from the clans by integration; or
- (2) a horde grows to tribal dimensions and becomes differentiated in clans; or
- (3) each of a number of neighbouring hordes becomes differentiated into a clan and becomes compacted in a tribe; or, lastly,
- (4) each horde is a cluster of hordes which become clans and thus form a tribal organization.

The Evolutionary school believes that it was *the domestication of animals* that converted the savage pack into the patriarchal tribe and *the adoption of agriculture* broke up the tribe in clans. But before we study this development, we may better see the differences between the patriarchal society and the modern.

(1) The patriarchal society is *personal*, not territorial. It does not care for residence and locality. *Blood relationship* is the chief thing in the membership of a group.

(2) It is *exclusive*. An immigrant to it is a thief: if admitted at all, it is only as a serf or slave.

(3) It is *communal*, not individualistic. Every individual is responsible to the house-father, the house-father for all his people

<sup>37</sup> See Aristotle's Politics, Ch. II.

<sup>38</sup> F. H. Giddings: Principles of Sociology, p. 258.

to the head of the clan, and the head of the clan for all his people to the head of the tribe.

(4) It is *non-competitive*. Life is regulated by fixed custom as we find in the caste system in India, and none is free to take up any occupation he likes.

**Effect of the domestication of animals.**

Now we may see how the domestication of animals created the tribe, and agriculture produced the clan.

The art of taming wild animals and making them serve the purposes of man is one of the great discoveries of the world. The savage because of the superfluity of game would first recklessly kill animals, but later on because of his childish and playful nature he learnt to keep them as pets. The cat and the mouse were his first pets. It soon, however, dawned upon him that the keeping of pets was a good store against famine. Hence the use of wool of sheep, hair of goats and milk of cows and she-camels taught him a new occupation--the keeping of herds and grazing them. *The hunter became the herdsman and with this change to pastoral pursuits, the whole character of the group was changed. Male kinship came into being for when the savage was out hunting and grazing the animals, women were to work at home to look after the pets, to spin the wool and to milk the cows. This necessitated permanent marriage and the woman had to leave her household for that of her husband, resulting in the end to another change by which descent began to be traced through man and not through woman. The usefulness of woman gave him the idea of the value of labour and polygamy<sup>39</sup> began to be practised, and for this purpose both capture and purchase were resorted to. Further, he no longer killed men in war: he rather enslaved them so that slavery became a useful institution in domestic ease and economy. In this way, wealthy and poor, profit and loss came into existence and the ideas of property*

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<sup>39</sup> Islam was the first to put a check on this practice. The following verse from the Holy Quran (4:2) speaks for itself—: "And if you fear that you cannot act equitably towards orphans, then marry such women as seem good to you, two and three and four, but if you fear that you will not do justice (between them), then (marry) only one or what your right hands possess; this is more proper, that you may not deviate from the right course."



and capital made their appearance. The savage pack has turned into a pastoral tribe and it organizes itself to satisfy the requirements of the new situation.

Thus the belief engenders itself that the tribe is descended from a common far off ancestor and they began to emphasise agnatic (through male ancestors) rule of succession and

#### The Tribe.

not the cognatic (ordinary blood relationship). None but the lawful children of a full tribesman could be full members of the tribe, and the serfs were bondmen kept because of their cheap labour. Even the ranks came to be marked on the basis of the number of cattle, and those who loaned their cattle to poorer members were called 'nobles.' The *chief* represented the Founder of the tribe and was usually the oldest male. The Irish called him *Ri*, the English *Cyning* (king), the Pathans *Khan* and the Hindus *Rai* or *Raja*. He was to be eloquent to speak for them, brave to lead them, and honest to give them security in every sense. Sometimes, even the *heir-apparent* was nominated. Then there was sometimes a *Champion* also, for if the chief lacked martial spirit he was to lead them in war. He got an extra share of booty and got customary presents like the chief. His position thus represents the first example of the specialisation of functions. Besides, there was also a *council* like the Afghan *Jirgah* or the Hindu *Panchayet*, usually formed of the heads of the subordinate groups of the tribe. It recorded the custom and regulated the ceremonies and religion of the tribe, for the old taboos have now become crystallised and any innovation or departure from the ancestral custom is regarded a heinous crime and the greatest of impieties. Blood fine is exacted for injuries to fellow tribesmen and the cattle and sheep form the standard of value. In Religion, the old superstitious beliefs have given way to ancestor worship of which the centre is the family hearth, and the character of this religion is very different from our own. In the first place, it is *not* *proselytizing*, it does not believe in conversion. In the second place, it is *not theological* and does not profess to give explanations of the origin and constitution of the universe. It has no dogmas. Thirdly, it is *secret* and tribesmen think it profane if strangers have a look at their

Patriarchal religion and modern religion.

ceremonies or hear what they say. In India, though it is now fast disappearing, we can still see this aspect of religious belief where Shudras have been denied even the hearing of 'mantras' uttered by Brahmins, what to say of their going to the temples.

In this way, the whole character of savage life was changed by the institution of the domestication of animals. Now the coming of agriculture further transformed his manner of living.

Some savages might have gathered some wild seeds and buried them under the earth, or possibly, woman might have been the first to learn how plants grew every season round her cottage from the stray seeds which she might have thrown along with the dust. Any way, the springing up of plants after a time must have given the savage the first crude idea of agriculture, but he must not have adopted it because the pastoral pursuits must have proved easier and ready means of livelihood. But the growth of population might have forced him to have recourse to this method, however laborious it might have appeared.

The first step then was the clearing up of forests sometimes by burning them to ashes, thus providing primitive manure. Experience must have shown that cultivation of the same

The steps. soil produced barrenness. Hence other parts might have been used. Thus extensive agriculture might have come into existence because of extravagance of land and labour. The abandoned lands would have acted as pasture grounds for cattle and thus the Field Grass system must have come to be known. This would have led to the Two-Field system for man must have realised that the land left for fallow had recovered its fertility so that each patch of land began to be sowed every alternate year. This further would have disclosed the advantages of a Three-Field system in which two fields might have been given to two different crops, and one would have been left fallow as he must have come to know the truth that if a land is exhausted for one kind of crop, it is not exhausted for other kinds. In the end, the so-called convertible husbandry must have come into existence. Fallows must have begun to be practically abolished, and by an increase in the number and variety of crops and the use

of artificial manure, the land must never have been allowed to get exhausted.

These developments would have brought not only a change in methods, but also in the institutions and social life of men. For while pastoral pursuits involved a sort of nomadic life, the agricultural made permanent *settlement* necessary. It is this settlement which has broken the tribes into *clans* and has led to the establishment of villages with their own separate organizations. Thus in every village there comes to be a headman or Reeve, a council or moot, a constable and a pound-keeper.

There are, however, *two views regarding the origin of the village*. Vinogradoff and Maitland hold that the typical village was

**Origin of Village.** originally a band of kinsmen working for themselves; while Seebhom and Fustel de Coutanges hold that it was originally a group of serfs (or slaves) working for a master. Both the views are correct. For with the growth of population and the pressure on the means of subsistence, the poorer kinsmen of the tribe might have left for the fields and established themselves as agriculturists so that in three or four generations separate clans as forming villages might have come into existence and families might have made their appearance. Or, the 'nobles' might have given this arduous duty to their serfs or bondmen who might have settled round about the fields thus forming villages. In either case, the village was as much the result of the dismemberment of the tribe in clans as composed of kinsmen, as it was the result of dominion. The principle of one was harmony, that of the other obedience, and both are essential for the successful ordering of a social unit.

While *the introduction of agriculture thus turned wandering herdsmen into settled peasants*, it also led to the rise of industries and the consequent creation of *gilds*. The demand

**Rise of Industries.** for ploughshares, reaping-hooks, spades, mattocks and hoes brought in the art of working in metals, specially iron with its smelting in the fire. Thus came the *smith* who not only forged and mended the ploughshares but also made sword and spears, and in this way different crafts followed, and *carpenters, cobblers, tailors*

made their appearance. Even the older crafts felt the tendency towards specialization and, instead of each group doing its own weaving, thatching, baking and brewing, we get these crafts undertaken by special bodies, the *weavers, tilers, bakers and brewers*.

With this making and producing, trade and commerce also made progress and the merchants made their appearance. This creates

**Trade and Commerce, Towns and Gilds.** a sort of mental revolution for no longer a stranger is regarded a thief: he has come to be the guest. The *law of the market* gets its first recognition and markets arise at places where men of different villages can easily assemble. This explains *the rise of towns and finally of cities*. Thus towns and cities are definitely connected with the rise and varieties of industries and with them the *gilds* also, for men following one occupation organized themselves as *one brotherhood* in which again no stranger could enter. It also acquired a semi-religious character and it began to look after its affairs exclusively—the regulation of work and prices, the inspection of its workshops and the fixing of measures and quantities. Even names of individuals began to be adopted after their craft, such as we find in English names, V. A. Smith, or F. W. Carpenter and so on. They also provided their schools or orphanage and even began to have their own Eldermen who settled their disputes, and in their frequent drinkings, feasting and merry-makings they began to resemble a great family.

With this specialization in crafts, there was also *specialization in the art of war* and this ultimately brings the state into existence.

**War and the beginnings of the state.** We have seen how feuds originated among the individuals of a tribe and how blood fine was exacted. These feuds then made their appearance

between tribes and tribes, clans and clans and even villages and villages. The reasons must have been, in the first place, the increase of population with its consequent pressure on the means of subsistence, which might have resulted in the subjugation of the weak by the strong. The increase of wealth with the agriculturists and craftsmen must have tempted the pastoral people to loot and plunder them resulting in the subjugation of many a people.

to the invaders. Thirdly, the improvement in the art of working in metal must have given a great impetus to warfare for in the place of wooden bows and arrows, steel weapons and armours might have come into existence. The result would have been the rise of *the professional soldier*—that is, specialization in the art of warfare might have begun with a definite class for the agriculturist could not have left his soil nor the artisan his industry.

Thus the state originated either because of group conflicts within particular areas in so far as clans and tribes might have been conquered and consolidated by a well organized

**The origin of the state.**

clan or tribe, or because of the migration of a host from unfavourable soil to the rich plains where it must have come in conflict with the settled people. Being adventurous and used to harder life, it must have easily established its dominion under the protection of its leader who now assumed the title of a king. *Thus the state with its sovereign and subjects came into existence.*

But this does not mean that the process of creating states was so easy. The warriors who founded successful states, whether they

**The feudal system.**

were alien adventurers or enterprising war-leaders of neighbouring tribes, found various degrees of authority in existence among their subjects. These authorities were rarely dispossessed by the conqueror who only insisted on their recognition of the fact that they derived their authority from him. So that there came to be a hierarchy of organization—the king, the lords, the vassals, the tenants, the sub-tenants and so on. This was the so-called feudal system which provided what we call the “missing link” between the patriarchal society and the state as we understand it. And it proved useful in several ways. Firstly, it was based on land having obligations of protection and service. While the lord was the real owner of land, the vassals or tenants held it on conditions of certain services and the lord had the duty of protecting them. The practice of commendation not only strengthened an already powerful lord, but also extended the area of his dominion, so that *the state resulted either because the neighbouring feudal principalities “commended” themselves to an overlord or because in course of time he conquered*

*them all.* In this way, the king came to be the master of the soil, the supreme owner of the land over which he was ruling.

Such, in brief, is the historical view of the origin of political society. Where history has failed to help us, we have taken help from anthropology and sociology and if these two have not been able to give the whole explanation, we have taken to speculation so that by all these means we have reached a fairly accurate estimate of the origin of the state.

This new type of community thus differed materially from the earlier types. In the first place, it was *territorial* and its bond of strength was not kinship, but military allegiance  
**S t a t e   a n d**   which in course of time, by a process of assimila-  
**earlier societies.**   tion and integration, developed into the so-called patriotism. In the second place, it was not *exclusive* in the sense of the old tribal system for the basis of the new units is not ancestor worship, but a universal religion. Thirdly, it was not based on custom. *Law* as the command of the superior has made its appearance and the new community is being governed by means of promulgated laws. Fourthly, though there are the nobility of wealth and birth the *royal nobility* gains importance. Finally, the *individual* has assumed importance. Life is not communal as in early societies. Every individual begins to be directly dealt with by the state.

## CHAPTER VI

### THE GROUNDS OF POLITICAL OBEDIENCE

"The question which meets on the threshold of their enquiries all who have speculated on the nature of political society and the foundations of law," says Bryce. "is this: what is the force that brings and keeps men under governments? or, in other words, what is the ground of obedience." For what we usually see is the fact that men in general obey the state and its government. They have always lived under some sort of social control—from the loose organization of a group or tribe to the centralized administration of to-day. Our study of the past reveals the fact that men are *goaded* to rebellion: rather than they take a *pleasure* in it. It becomes a painful necessity to rebel.

**The question of obedience.**

Why then are men normally disposed to obey the powers that be? Various answers have been given to this question, and as Bryce suggests, they can be easily grouped under two heads:

**Two general explanations of obedience.**

- (1) There are those who believe that men obey because of the physical force which the state possesses. It is the might of the state that keeps them in order. Either the dread of death or of some other physical penalty or punishment always keeps them submissive to government. Hence the foundations of political obedience are to be sought in the psychological element of *fear*. Hobbes and Bentham are two great representatives of this view.

<sup>1</sup> Bryce: *Studies in History and Jurisprudence*, Vol. II, Ch. IX, p. 1.

- (2) There are again those who believe that men obey because they have consented to obey\*by their own free will.

This they have done because they  
 2. Consent and have realized the advantages of  
 reason or agreement.

common obedience to a supreme power. Hence political obedience to them is not based on fear, but on *reason*—on a rational examination of advantages of life with or without a common political superior. Rousseau is the great representative of this school.

Thus *compulsion and agreement* are the two bases of obedience. But to say so is to say too much. Both the schools have magnified a cause into *the* cause of our political obedience.

The two bases are only half truths. We do not say that both the schools are wrong.

What we mean to say is that they contain only *partial* truth and *not the whole* truth. We have already examined the force theory of the origin of the state and have seen that while force has been useful in *creating* state, it cannot *maintain* it for long. Men may dread physical force for *some time*; but they will not be afraid of it *all the time*. On the contrary, they would always be looking for a greater force to combat the existing one. Hence force does not *create* right. Sheer might is never right and as such cannot explain the whole phenomenon of our political obedience. Similarly, we have seen the social contract writers as explaining the origin of the state simply in the *reason* of man. They seem to depict the state as a *manufacture*, while history proves the contrary. It is the result of growth—of a process of evolution through a long course of ages. Thus while the contractual origin of the state might historically be a fiction, it has at least this element of truth in it that the grounds of men's obedience are *partly* to be explained by their voluntary submission to a common authority simply because of the realization of common benefits. We obey the state because such obedience is useful and necessary for our life and because we have consented to obey it. It is this recognition of common interest, of common good which has always forced men to obey the state.



Thus while force and consent, fear and reason, compulsion and agreement are two causes of our political obedience, they do not explain the whole problem of men's obedience in

**Obedience in general.** They do not explain why after all we

obey the authority even though we may disagree with it or some of its acts might go even against our personal interests; why we follow our social customs even though we have come to regard them as wrong or out-of-date. The answers to such questions can be found only in a study of not simply the grounds of political obedience but obedience in general. for 'political obedience' is not a thing by itself, but a form of what may be called *compliance in general*,<sup>2</sup> i.e., we have to look into the causes of our obedience not merely to the political society but to the social life as a whole, not merely to political control but to social control as well.

**Grounds of general compliance according to Bryce.** Bryce thus sums up the grounds of our compliance in general under 5 heads<sup>3</sup>—Indolence, Deference, Sympathy, Fear, Reason.

(1) By 'indolence' is meant the disposition of a man to let someone else do for him what it would give him trouble to do for himself. Men by nature have no pleasure in exertion. There may be some who like work and

**1. Indolence.** exercise. There may be some who like work and exercise, want to remain active or be ready to remain ceaselessly busy in some venture. but this is not true of the generality of mankind. Most of the men want simply to eat, drink and be merry. This explains why usually the rich and wealthy who have sufficient means of sustenance and are free from the anxieties or cares of life do not even want to move their hands and feet. The truth is that some significant moments, pressing necessities, unavoidable circumstances, and luring thoughts may force men to become active, but generally they are prone to prefer the line of least resistance. Men hate trouble: they want an easy life, or as Bentham puts it, they want to avoid pain and seek pleasure and as such do only those things which seem easy to them. They therefore obey, because it is too much to do otherwise. Disobedience requires effort and

<sup>2</sup> Bryce: *Studies in History and Jurisprudence*, Vol. II, Ch. IX, p. 6.

<sup>3</sup> *Ibid.*, p. 16.

struggle, exertion and activity, vigilance and enterprise and these are things which may be done by a few, but not by all. Hence men obey the state or prefer social control because it is the easiest way in their life, and those who can think, work and take the trouble of doing things become their natural leaders.

(2) Deference includes those emotions of love, reverence or esteem by which one is ready to sacrifice his own impulses to the

will of the person loved or admired. Thus  
**2. Deference.** superior wisdom, goodness, strength, moral character, social capacity or established reputation or influence establish a sort of unchallenging authority over the hearts of men: they even become proud of them. In this way, submissive deference has always been helpful in maintaining unquestioned obedience. The vast masses of India love and revere Mahatma Gandhi because of his moral goodness, high character, great sacrifices, and established reputation for truth. The late Pandit Motilal Nehru was honoured because of his superior wisdom, social capacity and integrity of character. Gama and Ram Murti are held in esteem because of their superior strength, so that the generality of the masses feel a sort of 'inferiority' as against the superiority of some and are thus unquestionably led to silent obedience.

(3) Sympathy means not merely the emotion or sentiment evoked by corresponding emotion in another, but the whole of the

'associative tendency' in mankind—to do as  
**3. Sympathy.** others do and to feel as others feel, unconscious though it may be. It is very near 'imitation' or the sheep-like behaviour of men though it is not the same thing. Fellow feeling or group spirit all can be traced to it. Hence clannishness, class consciousness, party spirit and the so-called patriotism all have their roots in 'sympathy.' It is more or less an attraction of the like to like, the consciousness of kind as Giddings would call it or the gregarious instinct of human beings. Thus we believe in social or political control because we have been seeing or daily see men obeying the same, because we have to live an associated life, because we have to belong to some club, parties or associations.<sup>4</sup>

<sup>4</sup> This is in fact the meaning of Aristotle's dictum that man is a social animal.

(4) Fear as we have already seen is no doubt the promptest means of restraining the turbulent or criminals or suppressing the impending insurrection by striking terror into the

**4. Fear.** hearts of people, but it cannot create *lasting obedience*. It may be an *effective* force at a particular moment, but it becomes inoperative in the long run.

(5) Reason too is useful, for while fear *restrains*, it places before the individual's mind the ins and outs of a situation. He begins to calculate and think and as such his

**5. Reason.** reason proves a permanent restraint upon his actions. Bryce thus sums up the part of reason's restraining influence.<sup>5</sup>

- (i) Reason operates upon the superior minds leading them to forego the assertion of their own wills.
- (ii) Reason teaches the value of order, reminding us that without order there can be little progress.
- (iii) Reason preaches patience holding out a prospect that evils will be amended by the general tendency for truth to prevail.
- (iv) Reason suggests that it is often better that the law should be certain than that it should be just, that *an existing authority should be supported rather than the strife should be caused by the attempt to set up a better one*.
- (v) Lastly, reason disposes minorities to acquiesce even where a majority is tyrannical, in the faith that tyranny will provoke a reaction and will be overthrown by peaceable discussion.

Besides these, there are other factors also which force us to obey the social or political authority. Thus:

(6) There is *habit* which may be called intensified indolence. From our childhood to manhood, we have to obey the parents, the school masters, the aged in our society, the

**Other causes of Obedience:**

**6. Habit.**

the churchmen, the learned people, and follow the time-honoured customs of our social life. The 'cake of custom' thus breaks hardly and we go

<sup>5</sup> Bryce: Studies in History and Jurisprudence, Vol. II, Ch. IX, pp. 12-13.

on doing things because our forefathers have been doing them and we still see other peoples doing them. Moreover, it has become our second nature to do them, and they have become a part of our being.

(7) Further, we obey because of our *interest* or gain. An average man is moved more by the motive of personal gain than by

**7. Interest.** high altruistic motive and as such follows the line of least annoyance while men of force or ambition

try to gain the favour of those who are in power.

(8) Also *discipline* as a factor in obedience cannot be underrated. All men are under some sort of organized control. There

**8. Discipline.** is the discipline of the family, the school, the church or otherwise so that a form of intensified habit is formed. Side by side with this, moral considerations enter and the exercise of *will* becomes important. An average human being thus *will*s a smooth and unruffled life.

(9) No less important is the factor of *opinion*—opinion already prevalent or organized for obedience has much to do for human action. This is why an intensive propaganda is sometimes necessary to move the masses against the existing order of things. For besides indolence, it comes to be a sort of belief or opinion of the generality of the people that the existing state of things is quite better.

To sum up, we may say with Holcombe 'that the normal man obeys the rulers of his state as he obeys others who exercise authority over him, partly because it is natural for him to do so, partly because he fears to disobey and partly because obedience seems to him reasonable.'

Summary.

But while these causes of obedience might have been powerfully at work in the past, they seem to be daily losing their force in the

**The future of Obedience.** changing character of our modern society. In ancient societies, taboos and customs kept the people in order. Then the world religions taught order to men, for to rebel against the king was a sin against God. Even in modern times, obedience was ungrudgingly given to the rulers either because of fear, or habit or reason. But in recent times, with the develop-

<sup>9</sup> A. N. Holcombe: The Foundations of the Modern Commonwealth, p. 22.

ment of democracy<sup>7</sup>—where we have to count upon the masses for their vote, we notice a marked change in their attitude, for even the landed aristocracy which were usually the ‘natural leaders’ of the people have been thrown in the background. Thus as Bryce suggests ‘with the advance of knowledge, the development of intelligence and the accumulation of human experience, obedience must necessarily decline, and that therewith governmental control will decay or be deemed superfluous.’ For already, men like Faguet<sup>8</sup> have been calling Democracy as the ‘cult of incompetence,’ so much so that even the daily life and manners of the people have declined. They have no respect for the aged or learned, no sense of discipline or reverence, no consideration for time-honoured institutions or customs, so that the general tendency is already towards disruption and disintegration. In one word, obedience is declining in every walk of life and an average man does no longer render ungrudging obedience. It has certainly become and is becoming lax and loose, for, says Delisle Burns, “In spite of all the achievements which the 19th century would have called ‘progress,’ men are not more satisfied; for indeed one of the significant differences between yesterday and to-day is restlessness.”<sup>9</sup>

But this is no cause for despair: on the contrary, it is a healthy tendency. In the past, governments were carried on without any reference to the people and they too were glad to be let off in their fields and different other occupations. In modern times, however, they

**I n t e l l i g e n t  
O b e d i e n c e.**

<sup>7</sup>Delisle Burns: *Democracy*, pp. 20—22. In these pages, he notes two great characteristics of contemporary times:

- (1) the extent to which a large proportion of the population share in the benefits and have a ‘say’ in the control of the situation, and
- (2) the discontent with the result and criticism of the institutions through which this has been achieved.

Thus, in three directions, we find the development of democracy, viz.,

- (i) the increase in the political Franchise which now includes even women;
- (ii) the lessening of the domination of the few over the many, which is specially due to Trade Unionism; and
- (iii) a larger acquisition of Culture by masses of men

<sup>8</sup>Faguet: *The Cult of Incompetence*.

<sup>9</sup>Delisle Burns: *Democracy*, p. 24.

have been called upon to realize their own responsibility. They might not have been already stirred to that degree which an intelligent understanding of our social and political problems requires: still they have woken up from the slumber of centuries. They have begun to assert and this is why we feel a sort of irreverence prevailing. We were not used to it: we liked and cherished their submission and therefore we now feel a sort of difficulty in our social life. Obedience will thus become more and more a 'product of reason' rather than of mere indolence or timidity, because 'every advance in popular enlightenment or in the participation of masses in government ought, after the first excitement of unchastened hopes or destructive impulses has passed away, to engender a strong feeling of the common interest in public order and of the need for subordinating the demands of a class to the general good.' The masses may not have the leisure and the capacity to understand the details of policy and legislation, but they can exercise their power on broad national issues. 'The greatest peril to self-government' says Bryce 'is at all times to be found in the want of zeal and energy among the citizens.' And this is more true of our modern life where democracy has become the rule<sup>10</sup> rather than the exception. We require an intelligent citizen body for the successful working of our institutions.

This is why we in our own days no longer emphasise the dangers of disobedience. We emphasise the dangers of obedience, for 'submission is less frequently due to overwhelming force than to the apathy of those who find acquiescence easier than resistance? It is this apathy which we regard suicidal in our times. Professor Laski has set forth in an admirable essay the dangers of unquestioned obedience.<sup>11</sup>

**The dangers of Obedience.**

ing force than to the apathy of those who find acquiescence easier than resistance? It is this apathy which we regard suicidal in our times. Professor Laski has set forth in an admirable essay the dangers of unquestioned obedience.<sup>11</sup>

He begins by pointing out that stationary societies, because of their dull uniformity, kill or suppress originality and all the avenues of creative thought are closed. All sense of individuality is lost. No change in the beaten track

**Laski's view.**

<sup>10</sup> The temporary rise of Dictatorships and the stifling of all liberty under Fascistic states does not modify this statement of ours.

<sup>11</sup> H. G. Laski: *The Dangers of Obedience and Other Essays*.

In his article on 'Conflicting Social Obligations' Mr. G. D. H. Cole points out how Rousseau recognized the 'General Will' of

**Cole's view:** each association and how, therefore, he tried to kill them because these concentric circles of 'General Will' would affect a healthy loyalty to the Universal General Will of the state. In the words of Hobbes, Rousseau also regarded associations within the state as 'worms' within body politic. But, says Mr. Cole, this is a mistake of Rousseau for he is emphasising the reality of the geographical all-comprehensiveness of the state or of the national state and is forgetting the 'functional principle' which also unites men and which has, specially in our times, crossed all national frontiers. This is why Rousseau felt the necessity of a 'Civil religion,' for universal churches attacked his theory of the General Will inasmuch as a church within a state signified a will of its own and as such created a sort of imperium in imperio. Cole, therefore, contends that the real General Will can be created, not by the killing of 'associations' which are genuine factors of associated and cooperative life, but by *integrating* the lesser wills in the General Will. The state at most may be regarded as the 'elder brother' of associations, but in no sense their autocratic father.

Further, in another essay, 'The Loyalties,' he again takes up the question and observes that though 'loyalties' sometimes 'cut up each other, this conflict is not of their essence. Rousseau, to him, misunderstood the nature of 'loyalties' as antagonistic to the General Will. In fact, it was their harmonization for the common good that created a genuine and living General Will, and the state thus came to be 'the most complex kind of continuous association.' In other words, '*rational loyalty to the whole is what we want but that is to be achieved only through a harmony of diversified loyalties. The freedom of voluntary associations is the life breath of its being.*'

## CHAPTER VII

### THE CHARACTER OF THE MODERN STATE

We have already seen the essential elements and the nature of the state. The qualities we have enumerated have been true of all states and of all times. But this does not mean

**Political ideas have differed from age to age.** that the states of all times and the political ideas regarding them have been similar in character.

The Greek idea of the state was very different from the Roman, the Medieval, and the Modern ideas of the state. Hence to grasp fully the characteristic features of our own state, we may better have a glimpse of the political thought and practice from the earliest times.

"Political thought," says Barker "begins with the Greeks. Its origin is connected with the calm and clear rationalism of the Greek mind. Instead of projecting themselves into the

**Beginnings of Political Philosophy in Greece.** sphere of religion, like the peoples of India and Judea, instead of taking this world on trust and seeing it by faith, the Greeks took their stand in

the realm of thought, and daring to wonder about things visible, they attempted to conceive of the universe in the light of reason."<sup>1</sup>

They began to question the 'why' and 'wherefore' of everything, and tried to explain the cause of every phenomenon. In the beginning they speculated on physical objects, and philosophy became the knowledge of the secret causes of events, which were daily apparent to the senses. Thus there arose the philosophers of matter and the philosophers of structure. Then they began to consider and speculate on human character and institutions, and in this they were not checked or forbidden by any accepted canons of belief or dogmas as was in the case of the East.

<sup>1</sup>E. Barker: Plato and his Predecessors, p. 1. This is the best available work in the English language on Greek political thought.



The Eastern people had from the very beginning come under the thralldom of religion. Whether in India or China, all human

**The East.** life came to be minutely regulated by religious injunctions and even the social institutions came to be ascribed to God's intervention, so that no room was left for philosophical speculation. The Kings were divinely ordained and the subjects had to obey them as part of their religion. Disobedience was a sin, and the most they could do was to pray to God to relieve them of a bad king. In such a life, Political Philosophy as an inquiry into the relation of the individual and the state, could have no existence. But this does not mean that the East was totally barren of political ideas. There was a well developed theory of government, though not a theory of the state. In India, Kautilya's Arthashastra is an instance in point. It deals with the governmental organization in detail.

**Reasons for Greek political thinking.** The Greeks, however, developed political thinking in a *systematic* manner. The reasons are not far to seek.

(1) The Greek view of religion was naturalistic and their deities differed from men only in degree. Religion was a matter of personal conscience, a private affair of the individual and hence there were no priests between God and Man.

1. 'Their religion was naturalistic.'

They did not emphasise the 'saving of soul' and therefore, ever remained free from the thralldom of church. Life of the hereafter had no special significance to them as against the life of this world: rather, they tried to make the most of this life, and virtue was sought for in the service of their city.

(2) They did not belittle individuality. They did not regard man as simply a 'speck,' an atom in the universe and as such unworthy of exercising his 'little stock of reason'

2. They did not belittle individuality.

as against the Infinite Wisdom of God. They regarded man as having a 'worth'—as being 'something' who had to play his part in his life. He had an appointed function to perform in his community. They thus valued personality and in this way stimulated thinking.

(3) The changing character of Greek society also helped thinking, for a variety of data gave opportunities for comparison and

discussion. They had known cycles of change in forms of government, from monarchy to tyranny, from aristocracy to oligarchy, from polity to democracy and as such had continuous opportunities of speculating on the good and bad forms of government, the causes of their success and fall, and the means and methods by which they could be maintained or their decline arrested. No such variety existed in the East. The Eastern empires were stationary societies—dull and monotonous. It was thus this dynamic aspect of political life which greatly stimulated political thinking in Greece.

(4) Besides these varieties of forms of government, the characteristic Greek polity was what we now call direct democracy in which all citizens actively participated. They made laws and decided state policies and therefore had a first-hand political experience. They had in this way ample opportunities of political speculation and of establishing general political truths.

(5) With this variety in forms of government, there was also variety in the character of the states. The city state, unlike the Eastern empires, was not one but many, and each had its own peculiar features. Naturally, the Greeks could think of 'which was the best' and 'why' and therefore also, 'what was the ideal.' In this way, the real forced upon them the consideration of 'the ideal state.'

In short, the richness and fertility of political thought were due to special favourable conditions in Greece. "It would thus appear," says Barker, "that the political conditions of the city-state tended to produce a growth of political thought, first because the city was a self-governing community whose relation to its members demanded investigation; secondly, because the city had gone through a process of growth which at once supplied the data, and in its last stage administered an impulse to thought; lastly, because the co-existence of different types of cities, each conscious of its identity, suggested a comparison of types and the search for an ideal."<sup>2</sup>

<sup>2</sup> Earnest Barker: *Plato and his Predecessors*, p. 5.

Thus born in Greek conditions, Greek political thought remained peculiarly Greek. It centred round their city site, which was at once a church, a state and a university. But this does not mean that it is of little use to us in the 20th century, for after all 'the Greek city state was a State, and a Greek man, and therefore his is a theory of man and the state.'<sup>3</sup>

#### (a) The Character of the Greek state.

The Greek word for state is 'Polis' and Polis is a word which is both state and society. The Greeks never differentiated them. Hence Politics to them did not mean what it means to us to-day. "By politics," says Jenks. "we mean the business of government, that is, the control and management of people living together in a society."<sup>4</sup> It stands only for law and government, excluding religion, morality, art, music or literature. To the Greeks, it meant every phase of human life—political, economic, religious, artistic, spiritual or cultural. Religion was as mixed up with politics as music, gymnastic and education were its essential elements.

**Character of the Polis.** This was due to the peculiar character of their Polis.

(1) *Polis was a religious society.* As Delisle Burns says 'the polis was not what we call a state: the word meant society in general, organized indeed, but organized rather religiously than, in our sense of the word, politically.'<sup>5</sup>

1. Polis was a religious society.

The Greeks did not distinguish between the institutions of law and government and of worship, festivals and sacrifices. To them there was no difference between sacred and secular and every individual was expected to do his bit in the piety towards gods, reverence for ancestors and devotion to his city. Says Zimmern 'There was no such thing as a church as distinct from the religion of the family or of the state or of Hellas.'<sup>6</sup> Theirs was

<sup>3</sup> *Ibid.*, p. 15.

<sup>4</sup> Edward Jenks: A History of Politics, p. 1.

<sup>5</sup> D. Burns: Greek Ideals, p. 4.

<sup>6</sup> A. E. Zimmern: The Greek Commonwealth, p. 71.

thus the popular or social religion. It was but an aspect of their life in the Polis, and not a separate one involving a distinct society. *The Polis was the church and the church was the Polis.* |

(2) *Polis*, further, *was an ethical society*, a society existing not simply for life, but for good life. It was a moral association existing for the common good. It was a life of 'true

2. Polis was a moral society. a fellowship,' as Zimmern calls it, and the Polis represented to them 'common interest,' a real community, and one brotherhood. In this brotherhood each performed his function and followed his capacity. This was the true partnership in virtue, and this represented the Justice in the community. Political science, as the science of the state, thus assumes an ethical garb and becomes moral philosophy. Even law is an expression of moral reason, the common spiritual substance of the community and as such jurisprudence is nothing but Ethics. For law is the cohesive force of state and society. It binds the community and is therefore sovereign. As Barker has put it '*Political science is a trilogy. It is the theory of the state, but it is also a theory of morals and a theory of law.*'

(3) *Polis*, again, stood for a society which *was an organic whole*, a living organism. Everyone had *duties*, not rights. There was no idea of man *versus* the state: rather the very opposite was the truth. Man was man only because he was a member of the Polis. *The Greek*

3. Polis was an organism. *was made for the city, not the city for the Greek.* Without it, he was nowhere. Hence there was no antagonism between the individual and the state. On the contrary, the state was the very core of his being. He was the part and parcel of his city; and yet he did not lose his individuality: he was not lost in the whole. He could detach himself to think of his own duty. He was certainly a citizen, but an intelligent citizen. He could spend his body as mere external tool in the city's service, and could count his mind as most truly his own when employed on her behalf. It was thus no slavery: it was real freedom. Service was the true liberty, for his city was the only city and her ways the only ways. This was the meaning of his civic patriotism which is the greatest legacy of Greek political thought.

(4) *Polis*, lastly, *was an educational institution*. It was the training ground of citizenship. Every individual was to be prepared for his function in the community. "The life of

4. *Polis* was a school. the early Greeks," says Zimmern "was enclosed . . . within concentric circles of loyalty. Outside, they had the nation; within that the tribe in the narrower sense; within that the 'brotherhood' or companionship of tent and mess mates; and within that the still narrower circle of the immediate family," and it was their closest touch with each of them in daily life which gave the Greek his first training of citizenship. In this way, 'Greek patriotism fused the emotions of school and family, of inheritance and early training, of religion and politics—all the best of boyhood with all the best of manhood—into one passionate whole.' Thus the Greek state had always a mission to perform and as such state activity was universal. It had to educate public opinion: it had to give lessons in its laws for it was this knowledge which was the bedrock of the state.

Such, in brief, is the characteristic Greek state. Political science in Greek hands became not merely a knowledge of what was existing:

but of what ought to exist. They did not treat it simply as a Science: they made it an Art and in Plato and Aristotle we find mechanics, designers, draftsmen, and engineers of Political Science.

Politics in Greece  
was both Science and  
Art.

#### (b) The Character of the Roman State.

The Roman state, like the Greek state, was also in the very beginning a city state. But it came to be an Italian state and a world state. It was a Kingdom: it was a Re-

**Rome an inter-  
mediary.**

public and it was an Empire and it is the imperial idea together with its legal system that we regard as the chief contribution of Rome. But this does not mean that this growth and development of the Roman state is a unique phenomenon by itself. It is, in fact, a continuation of the Greek tradition both in action and idea, in practice and thought. The Roman city state represents a continuation of the Greek city state as a reality, and the Roman Empire the realization of the Stoic

idea of a universal state. In this way, Rome marks the transition between the city state of Greece and the world state of the middle ages. It has been rightly called as a great 'intermediary.'<sup>7</sup> But it is not only in political development that it intervenes: its intermediate character is universally true. As Asquith puts it, 'Alike in literature, in art, in philosophy and in religion. Rome built the bridge over which many of the best thoughts and the finest models of antiquity found their way into the Medieval and thence into the Modern world. Her genius was not creative but assimilative, its function was not to originate but to adapt; and not infrequently, in the process of adaptation to transmute.'<sup>8</sup> Besides, its law has ever been regarded as the source and strength of our modern legal system, so that in every walk of life we find Rome as a 'hyphen' between the ancient and the medieval, a 'buckle' that fastens them both with our modern civilization.

Though Rome was also a city state, yet in character and conditions it differed materially from its Greek prototype and political speculation had not such a fertile field for Romans as it had for the Greeks. Firstly, *the Roman city state was one, not many.* It did not, therefore, possess such vast and various material for speculation, comparison and discussion as we find in Greece. The Roman State being the one of its type could give no incentive to its citizens to think of the ideal. The real was the ideal. Secondly, *the agricultural tribal settlement of Rome did not witness tribal movements* or migrations as the Greeks had to do owing to foreign invasions and had thus to retire to cities for 'good life.' The Roman peasant had an unruffled and untroubled existence and as such was by nature required to remain satisfied with the bare necessities of his life. Such a peaceful and monotonous existence was prone not to provoke thought and this explains why the Romans were not a speculative people. They were quite practical because they made laws for their requirements, and not on ideal moral principles or standards of which they had none. The provision for the satisfaction

**Differences  
between Roman  
city state and  
Greek city state.**

<sup>7</sup> Legacy of Rome: Edited by C. Bailey, p. 238.

<sup>8</sup> Legacy of Rome: Edited by C. Bailey, pp. 1-2.

of the daily life, of a uniform existence in their agricultural surroundings was all that they sought for. *Hence the great difference between the Greek and Roman conceptions of the state: to the former it was 'common interest,' to the latter 'every body's business.'*<sup>9</sup> Thirdly, it is true that like the Greek City state and unlike the Eastern empires, the early Roman state remained free from the shackles of a church and as such could have freedom of thinking, but *the static character of Roman life* and the influences of surroundings were such that they could in no sense develop thought: rather they *favoured the line of least resistance.*

While these were the differences in the Greek and Roman views of life the city state as such ever remained the core of their thought and being. This is undoubtedly true of the Greeks as we have already seen, but it is also true of the Romans. The Roman city-state certainly became the Roman Empire, but the city as a natural political unit never left their minds. Says Abbott, "The natural political entity in antiquity was the city, with a small outlying territory about it. This state of things the Romans clearly recognized in fixing the status of conquered territory in Italy and across the sea. Thus, after the conquest of Sicily, Rome made arrangements for ruling the island, not with a government representing all Sicily, but with the sixty eight individual cities, and towns of Syracuse or of Agrigentum derived such rights as they had, not from the fact that they were Sicilians, but from their residence in the one or the other of these two cities."<sup>10</sup>

**Stages in the development of the Roman state.**

The different stages in the development of the Roman state have been well marked by Berolzheimer:<sup>11</sup>

(1) The Roman peasant state (the city state) presents the stage in which there is no philosophy of law at its back. "The life of the tiller of the soil was sturdy and rigorous, and his laws were of like tenor—austere, rigid and unyielding, severe in their provisions and oppres-

**1. The city state:**

(a) A present state.

<sup>9</sup> A. E. Zimmern: The Greek Commonwealth, p. 61.

<sup>10</sup> Abbott: Roman Politics, p. 8. Please also see 'Legacy of Rome,' p. 101.

<sup>11</sup> Berolzheimer: The World's Legal Philosophies, p. 78.

sive towards those falling under their authority." Such were the laws of the Twelve Tables in which there is a complete absence of an ethical element. The pater familias is an absolute monarch in the domain of private law and 'the early Roman state was built upon the familia as the artificial unit of authority; its

(a) A peasant state. foundation was not the individual, but the familia represented by its pater familias; to him all legislation was directed and from him it emanated." Thus the Roman city state was in no sense a moral association like that of the Greeks: it was a legal state. Political science was not there the supreme ethics nor was Jurisprudence, moral philosophy. Political science in the Roman state was Jurisprudence, and Law (or *lex*) was an utterance of the Roman people (*Populus Romanus*). The people were the ultimate source of right, authority, and privilege and

the power of command (*imperium*) was vested by (b) A legal state. its decree in the magistrate. Besides, the early Roman state was also a soldier-state: in our modern terminology, it was a nation in arms and its chief assembly was a 'town army.'<sup>12</sup> Lastly, we also find the importance of the group rather than of the

individual. The familia was not the only group (c) A soldier state. with which the state dealt directly: even the voting (d) Its foundation, the group, not the individual. in comitia was by groups.<sup>13</sup> And the struggle

between the Plebians and Patricians also created a sort of corporation—a state within a state, for the Plebians began to have their own organization and their own officers (*tribuni*) and had a concurrent right of legislation<sup>14</sup> so that group-life, which, as we shall see, had come to be the chief feature of the middle ages, had its beginnings in the city state of Rome.

(2) The Roman-Italian state was the result of a process of agricultural expansion in the 3rd century B.C. This marked the transition from the city state ideal; for the peasant state of Rome now became merged in the Great state which was, therefore, the *first territorial state*. The municipal constitution of Rome proved inadequate to meet the new situation and hence its political system as

<sup>12</sup> *Legacy of Rome*, p. 84 (also p. 99).

<sup>13</sup> *Ibid.*, p. 94.

<sup>14</sup> *Ibid.*, pp. 97-98.



well as its law had to be moulded or adapted to the altered conditions. Thus entered the principle of 'aequitas' in Roman law according to which the stern conception of legal right yielded to considerations of equity, as Berolzheimer puts it 'The Roman yeoman right became a law of universal scope; the foundations of this development were laid in the Roman-Italian period.'<sup>15</sup> In this way Ethics as a guiding principle in law-making makes its appearance.

(3) But the process of expansion thus begun was not to be arrested. Commercial development by the middle of the 2nd century B.C. soon surpassed the geographical

### 3. An Empire or world state.

limits of Italy and with it the dominion of Rome also. The city state became a world state, or more correctly, the Mediterranean State. Naturally, the primitive institutions of the city state failed to cope with the vast problems of the new empire. There were not only quarrels within Rome; there was discontent in the peninsula of Italy itself, for non-Romans did not favour Roman dominance, and the provinces were groaning under the rapacity of governors. To crown all, there came to be the overhanging fear of the Berbers, the Celts and the Germans necessitating professional and standing armies with the Governors. The professional army brought in the professional general who, realising the weakness of internal dissensions and universal discontent, made bold to assert himself. Thus came Caesar as the ruler of the Roman Empire calming at one stroke the internal dissensions and delivering the provincials of constant agony. The Empire, as Barker puts it, was thus not only a solution: it was also a salvation.<sup>16</sup> It marks the culmination of Roman expansion and Roman achievement, for Rome becomes changed to new ideals. The sovereignty of the people definitely becomes the sovereignty of the Emperor, the resolution of the people which was law becomes only the command of the sovereign, nay, even the uniformity of belief in their primitive cult takes up a new form—the so called Institutional religion in which the Emperor has been deified. And yet this is

<sup>15</sup> Berolzheimer: The World's Legal Philosophies, p. 83.

<sup>16</sup> Legacy of Rome, p. 59. The chapter 'The conception of the Empire,' pp. 45—89 has been written by E. Barker. It is but another specimen of the masterly insight and grasp of that writer.

not all. The conception of the city state has now been definitely thrown in the background. A universal state has made its appearance: a universal society has come into existence; a bid for a universal religion has already been made and a universal law has come to be established. With all these the equality of man has made its appearance. How all this came about we have now to see in detail, not simply because of its peculiar interest in the change of ideals but also because this universal tradition later on passed on to the Middle ages.

Barker has very well put this phase of Roman development. To him, while it was the Greek genius to rise to the conception of humanity, it was Roman genius to have translated that into an organized system of life. 'Rome built an empire in a world permeated by the preparatory thought of Greece and the Greek thought continued to permeate, and even came to cement the empire which Rome had built.' In this sense, the Roman empire was an achievement of both Greeks and Romans—the peoples of thought and the peoples of action.

But it is not simply the Stoic idea of a world state that has counted in the creation of the Roman Empire. Alexander's empire, besides other Eastern empires, had already attempted a Universal state and he had tried to bring the East and West under a single citizenship without any difference of the Greek and the barbarian. 'His conquests and policy had implicit two opposite conceptions—a single cosmopolis transcending cities, tribes and nations and the equality of all men in a common humanity and these are the two fundamental conceptions which inaugurate a new epoch—an epoch which succeeds to that of the Polis, and precedes that of the national state; an epoch which covers the centuries that lie between Aristotle and Alexander at one end and Luther and Henry VIII at the other, and embraces in its scope the three empires of Macedon, Rome and Charlemagne. They are again the two conceptions which we find in the teaching of St. Paul, who believed in one church of all Christians which should cover the world, and held that in that church there was 'neither Greek nor Jew, barbarian, Scythian, bond nor free.'

What then was to be *the cohesive principle* of such a vast Empire? Brute force or military subjugation could in no sense be enduring. The East had already made the

1. It was a church state. monarch a god among men, nay, a god himself.

His throne was sacred and his person the object of worship, so that the deification of the ruler was the best means of acquiring lasting obedience, for besides the people of the East, even the Greeks were not unused to the conception of the service to gods. This Alexander utilized with profit for himself and left it as a realized idea for the Romans, for when the latter's empire came to be extended to the Eastern Mediterranean, the cult of the deified ruler was adopted. Thus the Empire became a religion. *i.e.*, it became a church state.

But it is not only this cohesive principle that was the characteristic feature of the Empire: it also stood for a

Other features. common citizenship. a common law and a common government.

We have already seen. how the growth of the Roman city state into an Italian state had foreboded the failure of the early Roman system of Government. The non-Romans in

2. It stood for common citizenship. Italy never liked the dominance of Roman people and concessions had to be given to them by an extension of common citizenship. But the early emperors favoured Italy still as against the rest of the Empire. The Italians were in various ways privileged as against other conquered peoples. But this too could not last. Roman colonies began to be planted outside Italy and the standing armies were recruited from the people of provinces so that military service went a long way in bringing about a common citizenship. It was Carcalla who promulgated the *Constitutio Antonia* by which all free born members of the communities of the Empire were granted Roman citizenship.

Side by side with this common citizenship, developed a common law. The law of the city state was already being moulded to suit the conditions of the Italian state and now it

3. It had a common Law. had to meet the requirements of a vast empire composed of diverse nationalities and tribes.

Here the Stoic conception of Natural Law came to their help. The Jus Civile of the city-state became the 'Jus Gentium. The praetors' edict had marked the way towards this transition till it was codified and supplemented by the rescripts, edicts and decrees of the emperors so that when Justinian came a single universal law had come into being.

In this way, the Roman city state came to be a universal state, with one religion, one citizenship and one Law and now it also acquired a unification of government. No longer  
 4. It had a common government. the Emperors liked to exercise the imperium by virtue of Populus Romans. They wanted to get out of even the theoretical partnership of the Senate. With Aurelian and Diocletian they became real sovereigns whose will was law. The Dualism was dead for ever.

### (c) The Character of the Medieval State.

The universal tradition of Rome, in empire, in citizenship, in government, in law and in religion directly passes to the middle ages for they represent nothing but the continuation of  
**Continuation of Roman tradition.** the Roman Empire. The only new factor is the rise of a new universal religion which displaces the old, and in the end comes to exercise such a powerful influence that the whole conception of society and government, law and citizenship, nay, of all life is completely changed. That new religion was Christianity.

In the beginning the followers of Jesus were found scattered in the Roman Empire. So long as they simply believed in Jesus and his teachings, the Roman Empire did not care for  
**Rise and spread of Christianity.** them, but when they tried to have a separate organization of their own, they began to be regarded as dangerous and were therefore persecuted. The Empire, as we have seen, was based on a uniform religion on the part of its subjects. The new religion created a sort of divided allegiance for its followers began to refuse to serve in the army, to go to the law courts, to take an oath and to worship the statue of the Emperor. This was not because of any spirit of resistance or rebellion. It

was the direct result of the teachings of Jesus, of the change in the angle of vision regarding human life. "My Kingdom," said Jesus, "is not of this world" and hence his followers

Differentiation of sacred and secular, of church and state. began to care little for earthly life: they cared more for the hereafter, for the saving of their soul. They began to differentiate between *the kingdom of this world and the kingdom of the hereafter, the kingdom of the flesh and the kingdom of the spirit*. Thus for the first time a difference between *sacred and secular, spiritual and temporal* came into being and the Christians began to ignore the temporary pleasures of this life in the hope of the permanent happiness of the life to come. Moreover, Christ himself had emphasised the fact that 'Render unto Caesar the things that are Caesar's' and 'Render unto God the things that are God's,' which meant that the human potentate was supreme only in the civil side of life, but not in the religious sphere whose sovereign was God Himself. Thus the State and Emperor represented but the civil side of life, and the Church stood for the sacred or spiritual organization of all brother Christians.

This new conception of life and its consequent divided spheres of loyalty struck at the very foundation of the 'cohesive principle'

**The Conversion of Constantine and the Edict of Milan.** of the Empire, and therefore the Emperors were forced to resort to persecution. But repression and stringent measures did not exterminate the new brotherhood: it began to flow as an undercurrent till it became a huge secret society spread throughout the length and breadth of the Empire. It was only with the conversion of Emperor Constantine to Christianity and the grant of toleration by the Edict of Milan (313 A.D.) that this struggle ceased and the Christian organization made its full-fledged appearance with its wide-spread local deacons, presbyters and the bishop as an 'overseer' above them. The Roman Empire again became a Church state, but the antithesis between sacred and secular, spiritual and temporal did not vanish: rather it became the corner-stone of the social as well as the political life of the Middle Ages.

But Constantine was not living at Rome, he made Constantinople the capital of the Roman Empire. Thus Rome began to lose its

former splendour for the whole weight of imperial prestige and grandeur now shifted to the East. The **Division of the Empire into Eastern and Western.** Empire naturally came to be divided into two—the Empire of the East and the Empire of the West, the former began to be influenced by Greek civilisation, the latter remained Roman.

Similarly, the Christian church also came to be divided into two—the Church of the East and the Church of the West and in the latter the Bishop of Rome exercised the greatest influence. He came to acquire not only the supreme position in matters of belief in Western Christendom, but because of the absence of direct imperial control, began to acquire vast lands, power and prestige so that when the Barbarians from the north flooded the Empire, all peoples looked towards him for protection. The Pope or the Bishop of Rome thus began to claim, as the representative of Peter, the supreme authority both in civil and ecclesiastical affairs of Western Christendom. But as he could not cope with the troubled times specially with the ever-hanging fear of the invasion of Lombards, he crowned the Frankish King as the Holy Roman Emperor and the so-called Holy Roman Empire came into being. Thus as Poole remarks, "The Empire of Charlemagne was no mere resuscitation of the extinct empire of the West. It was the continuation of that universal Empire, whose seat Constantine had established at Byzantium, but whose existence there was now held to have terminated by the succession of a woman, the empress, Irene. The Empire therefore went back to its rightful seat and its title devolved on Charlemagne."<sup>17</sup>

The Holy Roman Empire as its very name indicates was also a church state, but it differed from the early Empire in the fact that it had now two supreme authorities at its head, the **The Holy Roman Empire.** Pope and the Emperor and it was in the controversy regarding the superiority of one or the other of these that the whole of the Middle Ages were occupied.

<sup>17</sup> Abbot: Roman Politics, quoted, p. 134.

The term 'Middle Ages' has often been used in a variety of senses. Some begin it with 476 A.D.—the Barbarian invasions and end it with the Fall of Constantinople in 1453.

**The term 'Middle Ages.'** Some extend it to Reformation, marking the beginning of the modern era either with the burning of the Papal Bull by Luther (1520) or with the Treaty of Westphalia (1648). Still others carry them down to the French Revolution. But the consonance of opinion seems to be for the first view, for the period between the 9th and 13th century is generally regarded as the 'heart' of the Middle Ages and in Political theory also this period is considered as embodying the characteristic features of medieval thought and practice, for the creation of the Holy Roman Empire (800 A.D.) gives us the medieval view of social and political life and the Conciliar movement marks a transition to a new way of thinking which, for the first time, finds itself express by Machiavelli—as the first modern political thinker.

The medieval political thought, says Gierke,<sup>18</sup> starts from the whole but goes down to the individual, of course, through the part

**Character of medieval political thought.** whole. It sees the universe as one articulated whole and every being—whether a joint being (community) or a single being—as both part and a whole. Since

**1. The world is an organism, and every community its diminished copy.** the world is one organism, animated by One spirit and fashioned by One ordinance, it must appear once more in the structure of its parts.

that is every component part of the world—whether an individual or community—must reflect that oneness; in other words, it must appear as an organic member of the world. In this sense, the individual or the community (the one being or the joint-being) is but a diminished copy of the world: it is a 'microcosm in which the macrocosm has been mirrored.' Thus the medieval view of society regarded the universe as an organic whole: it was a 'mystical body' manifesting the unity of its Creator. 'God, the absolute One, is before and above all the world's plurality and is the one source and one goal of every Being. Everywhere the One

<sup>18</sup> Gierke: Political theories of the Middle Ages Tr. by Maitland, p. 7.

comes before the Many. All manyness has its origin in oneness and to oneness it returns. Therefore all order consists in the subordination of Plurality to Unity—Unity is the root of all and therefore of all social existence.

Hence all mankind is but a part of God's manifestation in the universe—it is a partial whole and must therefore depict the unity

2. **Christendom** of the whole. Medieval Christendom is therefore **is a universal community.** regarded as a visible embodiment of that universal principle of oneness and is founded and governed by God Himself. It is a 'Universal realm,' spiritual and temporal, and may be called either the Universal Church or the Commonwealth of the human race. It must have one Law and one Government.

This 'single universal community,' however, has *two orders of life*—the spiritual and the temporal, and the medieval spirit, as Gierke tells us, refuses to accept Dualism as final.

3. **It has two Orders.** There must be one authority to depict unity.

This results in the so-called controversy of the Empire and the Papacy in which the Imperialists tried to depict the unity of God in the power and person of the Emperor and the High Church theorists in that of the Pope. Whatever might have been the arguments of both, the fact remains that throughout the Middle Ages the Church and State were regarded as two coordinate powers—the two swords of the *Repubblica Christiana*.

It is because of these 'theocratic traits' in the medieval view of society that the Medieval Ages have been dubbed as *unhistorical*

**The middle ages are unhistorical and unpolitical.** *and unpolitical.* They are *unhistorical* because in the writings of the great writers of these ages we find no reference to history—either of Greece or of Rome. They centre themselves on the contro-

versy of the Empire or Papacy or are full of metaphysical discussions of scholasticism. They are *unpolitical* because both in theory and practice the dominant facts are religious. The Sovereignty of God is conceived to be represented either by the Pope or the Emperor, and the peoples themselves are nothing but a 'flock' of believers. The Church is the State and the State is the Church, in one word, it is the Civitas Dei.



But while there is a great truth in this view, we cannot completely divest the Middle Ages of political character, for after all

**Through essentially theocratic, the medieval society was also political.**

*the Christian community was a community of men, and the republica Christiana was a universal state.* Thus, in the first place, in the controversy of the Empire and the Papacy and the organization of medieval Christendom, one great political idea stands prominent—it is the idea of monarchy.

**1. It had monarchy and the idea of sovereignty.**

All writers prefer and emphasise monarchy, whether that monarchy is that of the Pope<sup>19</sup> or of the Emperor, and as Gierke points out, the ruler is instituted for the people, not people for the ruler. Associated with this, later on springs up the idea of sovereignty as the absolute power; for the Pope began to claim and exercise such power over the whole of Christendom. Finally, this claim of supremacy on the part of the Pope gave rise to a counter-claim on the part of the people which meant the sovereignty of Believers. In the hands of writers like Marsiglio of Padua and Ockam it assumed the form of the sovereignty of the General Council as a representative governing body of the Believers. In this way, the Middle Ages do not give us the mere idea of monarchy but also of sovereignty as absolute and unlimited together with the ultimate source of power which in all cases is the people. In the institution of the General Council, we get the germs of Representative Government itself.

Secondly, it is wrong to think that the Middle Ages had no conception of the state. This mistake has been made only by those

**2. The state was an estate: personal, not territorial.**

who have studied medieval theory apart from its institutions and who have satisfied themselves with the idea that in the Middle Ages politics was but a branch of theology and that they represented essentially an era of Feudalism, of estates not states. As Jacob points out 'medieval public law is the ordaining and administration of the king as guardian of the common weal and as purveyor of

<sup>19</sup> Cambridge Medieval History. p. 632. See Church as the 'Fifth monarchy,' the first four having been represented by the Assyrians, the Medes and Persians, the Macedonians, and the Romans. The fifth begins with Christ.

justice. To medieval thinkers, the state is the sphere of the monarch in his dual capacity of protector and magistrate. This, rather than territorial integrity, is its essence. The king is, it is true, the feudal suzerain of his kingdom, first among his tenants-in-chief, perhaps indeed a vassal of some other monarch; but he is also its political sovereign with rights and duties that lie wholly outside the feudal orbit.<sup>20</sup> Thus the conception of the state is woven with the personality of the monarch and the sphere of his sovereignty varies with his personality so that public authority was not as effective, thorough and uniform as we find it in modern times.

Thirdly, besides the universal state and the personal state, the whole medieval life is pervaded by a federalistic idea of the state

**3. Medieval life was federal in character.**

and society and the 'Free Associations' have been regarded as the only 'political' organizations of the middle ages.<sup>21</sup> "The middle age," says Bede Jarrett, "is an age of groups and guilds, of communes; the ending of it passed into a period of intense personal self-development. Men no longer held; they owned."<sup>22</sup>

Or, as Previ-te-Orton puts it, 'The society whose greatest manifestations were the feudal monarchies and the mystical body of the church was not formed on an individualistic basis . . . men . . . acted as groups and communities. The most advanced of these were non-feudal. The Monasteries and the Military Orders, indeed, had seen their best days, though the finishing touches to their organization may be claimed in principle for the 13th century; but the Orders of Friars took their place in the Van, and the Universities shewed the freest form of self-governing communities. The intellectual Dominicans devised a representative system of remarkable consistency, while the communes and guilds applied the most complicated and ingenious methods of self-government to all affairs: war, justice, legislation, administration, and trade.'<sup>23</sup> *Thus the Middle Ages were an era of group life, of guilds—political, military, economic, commercial, industrial, social, religious and intellectual and the 12th century*

<sup>20</sup> The Legacy of the Middle Ages, pp. 507-8.

<sup>21</sup> *Ibid.*, p. 507.

<sup>22</sup> Bede Jarrett: Social theories of the Middle Ages, p. 149.

<sup>23</sup> The Cambridge Medieval History—Introduction, p. xi-xii.

was a period during which a *great* movement towards associations of one kind or another was going on all over Europe. Men of the same calling aggregated themselves into merchant guilds, trade guilds, craft guilds and began to figure prominently in the political organization of cities and states.<sup>24</sup> In the purely political sphere, the monarch's sphere in each geographical unity represented a group-life of its own and as such England, France and Spain represented the dim lights of the future national states. The feudal organization with its further group tendency had its 'orders' of nobles and knights, for 'fighting was the chief industry of the middle ages, and the warrior on horseback was the arbiter of medieval warfare from first to last.'<sup>25</sup> In the economic, commercial or industrial spheres, the towns, the cities, the communes, the guilds and the trading companies exhibited an independent group existence. As Osborn puts it, 'Towns were the units of political economy of the middle ages. When states with a national consciousness came into being, the Hanse and similar trading confederacies inevitably lost their power.'<sup>26</sup> But this was not all. They also 'became political laboratories in which numerous experiments in the use of a reasoned liberty and the methods of democratic government anticipated the later experience of national communities.'<sup>27</sup> Similarly, in the social, religious and intellectual spheres, the same corporate life is existent. Besides the different group organizations within the church such as the monasteries and other orders, the universities represented the best illustration of an autonomous existence. Paris, Bologna and Salerno 'stood forth as the three great homes of the highest culture.' These universities, like other institutions of the middle ages, were not founded, they grew. They were later on recognized and privileges and charters conferred upon them. Within the universities themselves, like the church, there were further organized groups, of the teachers and the taught and at the Congregations of a whole university the voting was by 'Faculties.' In this way, medieval life presented a whole hierarchy of group life, and every group was

<sup>24</sup> The Cambridge Medieval History, p. 561.

<sup>25</sup> E. B. Osborn: The Middle Ages, p. 80.

<sup>26</sup> *Ibid.*, p. 211.

<sup>27</sup> *Ibid.*, p. 221.

itself a group of many groups—a circle having many concentric circles; it was, so to say, a machinery of wheels within wheels, or as Gierke would have put it, it was an organism composed of many organisms—a 'whole,' with many 'part-wholes.' As a 'whole' the medieval society represented a unity<sup>28</sup> and yet it was a unity composed of other unities. Every part-whole reflected the unity of the whole. It was not a mere fictitious unity: it has a real life of its own and consequently a real will. Like the whole every part-whole was a living organism. Thus not only the universal state of the middle ages as represented by the Pope or the Emperor was a community of communities,<sup>29</sup> a group of groups: every state itself under the dominion of a monarch represented a federalistic organization. It was also a society of societies, a unity in plurality.<sup>30</sup>

#### (d) The Character of the Modern State:

The medieval view of state and society, however, was not destined to last for all times. As Laski points out, 'a world that recognised variety and difference seemed from its basis to give promise only of anarchism.'<sup>31</sup> Hence in the claims of the Pope and the Emperor for supremacy in Christendom we find the first germs of disintegration,

**The Princes  
rise in rebellion.**

<sup>28</sup> In 'The Social and Political Ideas of Some Great Medieval Thinkers' by F. J. C. Hearnshaw, p. 15, E. Barker thus sums up the gallant attempt of the church to unify all life: "Politically, it attempts to rebuke and correct kings for internal misgovernment . . . ; socially, it controls the life of the family by the law of marriage which it administers, and the life of the individual by its system of penance; economically, it seeks to regulate commerce and industry by enforcing just prices and prohibiting interest as it seeks to control the economic motive in general by its conception of property as a trust held for the general benefit and by its inculcation of charity; intellectually, it develops a single culture in the universities which are its organs, and in the last resort it enforces that culture by the persecution of heresy. It is a magnificent attempt at a synthesis of the whole of life by a sovereign wisdom."

<sup>29</sup> In this connection the student will do well if he studies in detail the following chapters of the Cambridge Medieval History, Vol. VI—, Chapters XIV to XVII, Ch. XXI, and Ch. XXIV.

<sup>30</sup> Legacy of the Middle Ages, p. 533.

<sup>31</sup> H. J. Laski: Foundations of Sovereignty, p. 5.

for the Pope stirred up different princes to rise against the authority of the Emperor. When the Empire grew weak, the weapon which the Pope had used against his rival turned against himself. The Princes began to chafe under his control also and the lead for revolt was given by Philip the Fair of France and Lewis of Bavaria.

After doing away with the superior claim of the Pope, the princes tried to consolidate their position within their own territories for the feudal system was a great check on

**The rise of the modern state.** their absolute power. Fortunately for them, the discovery of the gunpowder changed the whole

character of medieval warfare. The knights and the nobles with their definite 'orders' and feudal levies were thrown in the background and standing armies made their appearance owing direct allegiance to the Princes, so that the kingdoms of England, France and Spain grew strong, united and independent. *The national territorial state* under a common king came into being. The groups everywhere, certainly, were not 'destroyed,' but they were 'put in fetters.'<sup>32</sup>

The National State was thus the product of the Renaissance<sup>33</sup> and we find in Machiavelli the first nationalist of modern times. He

**Machiavelli and the Nation State.** was in every sense the child of his own times. The dominant note of the Renaissance was

*freedom* and in the political sphere Machiavelli was the first to learn that lesson. He wanted a free Italy under a national Prince. Further, he had seen that his was *an age of strong men* for in England, France and Spain it was the strong man who had accomplished the task of unification. He, therefore, for practical purposes, set aside his republican bias and stood forth as the greatest champion of a strong Prince. Lastly, he had clearly grasped the passing of the Middle Ages with their universal ideal of a *republica christiana*: he therefore at once took up the cause of the rising tide of *nationality*. People were no longer to be organized on the basis of a common religion, but on the basis of their common residence, and a common spirit of nationality.

<sup>32</sup> *Ibid.*, p. 13.

<sup>33</sup> H. J. Laski: *Problem of Sovereignty*, p. 2.

This process of creating Separate National States was further strengthened by the Reformation. 'It is one of the outstanding paradoxes of history' writes Laski 'that a movement which sought ecclesiastical purification through the medium of the individual conscience should yet have resulted in a greater measure of state-power.'<sup>34</sup> The church would not reform the abuses Luther had pointed out: and therefore in alliance with the Emperor, it tried to gag the mouth of Luther. The latter appealed to princes who took up the cause of *Protestantism*, and in the end succeeded in getting the power of settling the prevailing religion of their domains--*cujus regis ejus religio*. The result was not simply the dismemberment of the universal tradition of Roman Empire in the political sphere, but also a complete breach in the idea of a universal church. The cosmopolitanism of the Middle Ages had disappeared.

But in spite of this great change in our outlook we have not completely cut off ourselves from the Middle Ages. As Laski puts it, only the perspective has been altered,<sup>35</sup> for we still emphasise a *single universal community* which, for our purposes, is to be found within a national state. We still speak of one will, one law and one government and that again is expressed by a single national state.

But this view was not the only consequence of the Reformation. Its emphasis on the private judgment of the individual directly led to the rise of democracy. With Rousseau and the French Revolution, we take leave of the idea of national kingdoms: we begin to love national democratic states. The 'sovereignty of the people' has made its appearance. And with this, we enter upon the discussions of majority and minority rule, of Representative Government and Class rule. Finally, we again turn back to the medieval conception of unity as composed of pluralities, for experience has shown us that the monistic state is a pure abstraction, and is untrue to facts. This

<sup>34</sup> H. J. Laski: *Foundations of Sovereignty*, p. 15.

<sup>35</sup> H. J. Laski: *Problems of Sovereignty*, p. 2.

is why, in contemporary times, we have come to dethrone the state from its majestic position for we have come to regard it either as *a group like other groups* in the satisfaction of our social needs or as *a group of groups* performing the functions of co-ordination and adjustment.<sup>36</sup>

Thus the modern state, as distinct from the ancient and the medieval, has progressively come to acquire the modern peculiar features of its own which, for the sake of clarity and brevity, may be stated thus:

Firstly, the modern state is a large territorial unit as against the city state of ancient times. *It is a country state.* Large tracts of territories which have culturally, physically or in other aspects come to acquire a sort of similarity in customs, manners or traditions and also in their configuration, climate and products, have, in most cases, come to be grouped together as one political unit. Thus India has got its own boundaries and government because of the Himalayas and the sea coasts; Italy has got its own because of the Alps and the Adriatic and the Mediterranean seas. Similarly, France, England, U. S. A. and Japan have formed separate states on the basis of some common characteristic features which are peculiar to their territories—a common language, possibly a common religion or some other aspects out of those which we have already enumerated.

Secondly, the modern state is a national state. The city states of Greece had no such basis. The Greeks had no idea of a nationality or of a nation as we understand them. They were certainly proud of their 'Greekhood' or their 'Hellenic' culture so much so that Aristotle even goes so far as to assert that the Greeks were the most active and the wisest of peoples and that they could never be slaves, but this was their localism rather than their nationalism. The spirit of nationality is a peculiar product of the modern world, and the national state is based on nationality and patriotism, the latter being another element of significance in the rise of the modern state.

<sup>36</sup> But in very recent times with the coming in of Fascism and Nazism the swing of the pendulum is again towards the monistic state.

Further, the modern state is not simply a national state; *it is also a democratic state*. The city state, if may be argued, was also democratic. That is, no doubt, perfectly true.

**3. It is a democratic state.** But there is a fundamental difference in Greek democracy and our own. Greek democracy was a 'direct democracy' in which the people could assemble and could have direct personal contact because of the small size of their state. This is physically impossible in our large territorial states of to-day. We have, therefore, to fall back on what we call the 'indirect democracy' in which the people do not and cannot collect together to carry on the political discussion and to manage the business of their government. They elect their representatives to perform that function. Ours is therefore the Representative Democracy.

Fourthly, the modern state is not a theocratic state. It is not based on religion as the Islamic state was or the Holy Roman Empire existed on the basis of Christianity. The kingship in the religious state had a halo of sanctity about it. The ruler was either the direct descendant of God or was exercising power in His name as His agent or Vicegerent on earth. The laws for their validity took sanction from religion. To-day everything has changed. The Government has become essentially human, of man's creation, and the laws are made by man according to his needs and conceptions, so that *the modern state has become a secular state*. It has nothing of the sacred or the sacrosanct about it.

Fifthly, the modern state is also not a military state.<sup>37</sup> By a military state we mean a state based on the cult of power. Not only is the government a big machine of war, the whole social organization becomes a vast military caste.

**5. It is a constitutional state.** The Imperial Germany was the last vestige of it. We no longer talk of 'rattling sabre' and 'shining armour.' But this does not mean that we have no armies. In fact, in spite of all talk of disarmament, the reduction in armaments is quite disappointing. Nations perhaps are more armed to-day than

<sup>37</sup> The very recent activities of Italy and Germany, however, modify this statement of ours for in fact in these passing times military preparation or rearmament has become the most notable feature of our political existence.



ever before. They have perhaps more deadly weapons in their hands to-day than in any pervious period of human history. We are already gloomy as regards the future, for we foresee the very destruction of our present civilisation if only one more war comes in. Hence what we mean by saying that the modern state is not a military state is the fact that we do not regard war as an act of social life and, therefore, the state as God on earth. We have come to realize, however imperfectly, that war after all is bad: it is a relic of barbarism. This is why our governments to-day cannot hazard us in war *as easily* as a monarch could.<sup>38</sup> We do not live in an absolute regime: *we have a constitutional state*. Not the whims or the personal caprice of a king, but the decision of the people themselves or of their representatives in the government can now throw us into war.

Besides this change in Government, our society too has changed. The war lords, the so-called nobility or the aristocracy of birth who took pride in their profession are fast disappearing. We are moving towards an equality of conditions for all. This is what we mean by social democracy, so that the whole character of our life, outlook and organization has either changed or is changing. The modern state far from being a Military state or a Police state has become everywhere a Constitutional state, a People's state.

Sixthly, *the modern state is a sovereign state*. The Greeks only talked of the supreme power in their state, the Romans of the fullness of power in their state, the Middle Ages of the suzerain or the supreme lord. We, however, talk of the sovereignty of our state. This emphasises the fact of *unity* which we have already considered as one of its essential elements and which makes it supreme and exclusive, and externally and internally independent, in one word, a supreme self-sufficing entity. But in our contemporary times this idea too is waning for the sovereign state is being regarded just as monstrous as the military state. It is also being dubbed as a class state. For the military class we have changed the capitalistic class. The modern

<sup>38</sup> The modern Dictators, however, are hazarding us in wars for their actions might any day bring about another world conflagration.

state is therefore a capitalistic state, and as such greatly responsible for our modern wars. In our contemporary political theory, we are thus emphasising the Service state. We are going back to the ideal of Bentham. Though standing for a sovereign state for purposes of law: he throughout pleaded and stood for a service state. Similarly, Green's idea was also for the service state. In our own times, Duguit has definitely put forth the plea for the service state. In fact, the Great Leviathan has been attacked from all quarters. It has been called a servile state, a war state and what not. Thus the contemporary trend, as we will see later on in this book, has been towards the dethroning of the sovereign state from its august position: it is definitely for a Service state, or a Social state.

Seventhly, *the modern state has characteristically become an economic state or an industrial state*. The whole of the Socialistic

doctrine has been emphasising the class character of the modern state. To the socialist, the term 'democratic' as the name of the modern state is a misnomer: it is just the reverse of it—an aristocratic or an oligarchical state: a state of the rich: a capitalistic state. It is in no sense the People's state.

Further, the whole character of our social life has changed. *Every contemporary state*, as Graham Wallas has suggested, *has*

8. *It is a become a 'Great society' and our social life Great Society—a group of has become a vast social organization. The groups. state to-day is a society of societies, a group of groups, a community of communities.* Even Bosanquet recognized it though he still believed in the fact that the state was the 'guardian of the whole moral world.'<sup>10</sup>

Our contemporary writers have even gone so far that they do not want to call the state, a state: they prefer to call it a political association alike in character to other associations in our social life. To them, a state is not different from a university, a church or a trade union. It is thus not only not a

9. *It is a group of groups, it is a mere group among other group among groups.* This is the view of Laski. This is also other groups. the thesis of Mr. Cole in his 'Guild Socialism

<sup>10</sup> E. Barker: Political Thought in England (from Spencer to To-day), p. 78.

it is a corporative state, not losing however its sovereign or (even its) military character.

but it ought to lose its sovereign character as that is not a reality now because of a vast universal social organization, the economic unity of the world, the international trade, outlook and intercourse, and the establishment of the League of Nations.

After seeing the character of the state at different times in the history of civilization, we may now compare the essential features of the state of each period with those of our own. Bluntschli has very succinctly summarised them thus which I reproduce below:<sup>42</sup>

**Differences in the Ancient and modern states.** The chief differences between the Ancient and Modern states are:

*The Ancient state:*

1. The ancient state did not recognize the personal rights of man.

Rights of man. nor consequently the right of individual freedom.

In all ancient states at least a half of the population consisted of slaves without rights, and only the smaller half of free citizens. Agriculture and the rearing

of cattle, manufactures, household service, even

Slavery. trade in great measure were chiefly looked after by slaves. Consequently

labour was little esteemed.

Labour. ed and the labourer of little account. The slaves were only connected with the state through their masters. They had no share in the state: they had no fatherland. The

*The Modern state:*

1. ~~The modern state recognizes the rights of man.~~

Everywhere slavery has been abolished as a wrong.

Even the milder form of serfdom and hereditary subjection has been set aside as inconsistent with the natural freedom of the person. Man

has no property in man, for man is not a thing, but

always a person, i.e., a subject of right. Labour is

free and esteemed. All

classes of people have a political position in the state.

and the suffrage has been extended, even to labourers

and servants. The danger of

<sup>42</sup> J. K. Bluntschli: The Theory of the State, Ch. VI.

rights of man were almost denied them. Custom indeed was often better than the law, but even at the best their actual situation was uncertain, and might suddenly change to the worst.

Custom and Law.      slave revolts has disappeared. The whole state rests on a broader basis, its roots extend through the whole population.

Revolts.      From time to time servile revolts broke out, and were cruelly suppressed.

2. The ancient idea of the state embraced the entire life of man in community, in religion and law, morals and art, culture and science.

The sphere  
of state-action.

The priesthood was a political office.  
The ancient state did not yet recognize the full spiritual freedom of the individual.

2. The modern state has become conscious of the limits of its power and its rights. It considers itself essentially a legal and political community. It gives up its claim to dominate religion and worship, and leaves both to the churches and individuals. The priesthood is an ecclesiastical office. The modern state claims no scientific and no artistic authority, and it esteems and protects freedom of scientific enquiry and of expression of opinion.

3. Man had full rights, qua citizen. Among the Greeks private and public law were not yet distinguished.

Private and  
public law.

The Romans separated them in principle, but their private law still remained completely dependent on the will of the people and the state. Individual freedom as against

3. Man has his rights as an individual, private law is sharply distinguished from public law, and is rather recognized than created by the state, rather protected than commanded. The free person is not absorbed in the state, but develops himself

the state was not yet recognized.

independently, and exercises his rights, not according to the will of the sovereign state, but according to his own.

Sovereignty. 4. The sovereignty of the state was absolute.

4. The sovereignty of the state is constitutionally limited.

5. Public authority was directly exercised by its holders. In the ancient republic the citi-

Direct and Representative governments. zens appeared in great popular assemblies and decided directly on important public affairs.

5. The modern state is representative. In place of these mass assemblies comes a representative body chosen by the citizens. These representative bodies have more capacity than the ancient popular assemblies to examine laws to decide and exercise control.

6. The Greek states were essentially city states. Rome expanded City and Nation. from a city state to a world state.

6. Modern states are essentially national states. The city is only a community in the state and not the heart of the state.

7. In the ancient state, public activities were distinguished by their nature and objects,

Differentiation of functions. but usually the same assemblies and magistrates exercised different functions, legislative, administrative, imperium and jurisdictio.

7. In the modern state different activities have different organs, and thus the earlier distinctions in the objects of authority have passed into a personal separation of functions.

8. The ancient state felt itself limited externally only by the resistance of other states,

International relations. and not by a common international law. Rome pursued without scruple the dominion

8. Modern states recognize international law as a limit to their dominion. International law protects the existence and freedom of all nations and states, and re-

of the world as her natural privilege.      jects the universal dominion  
of one state over all peoples.

**Differences in  
the Medieval  
and Modern  
states.**

The chief differences between the Medieval and Modern states are:

*The Medieval state:*

1. The middle ages derived the state and the authority of the state from God. The state was held to be an organization willed and created by God.

Divine and  
Human origin

2. The conception of the state was based on and regulated by theological principles.

Theology  
and science

Islam, which belonged altogether to the middle ages, recognized only a Kingdom of God, which was entrusted by God to the Sultan. Medieval Christianity avowed the dualism of Church and state, but believed that both the swords, the spiritual and the temporal, were entrusted by God, the one to the Pope and the other to the Emperor. Protestant theology rejected the idea of the spiritual sword, and recognized only the one sword of the state but held firmly to the religious idea that sovereign power comes from God.

*The Modern state:*

1. The modern state is founded by human means on human nature. The state is an organization of common life formed and administered by men and for human ends.

2. The fundamental principles of the state are determined by the human sciences of philosophy and history. Modern political science starts from the consideration of men in explaining the state. Some consider the state to be a society of individuals who have united together for the defence of their safety and freedom; others as an embodiment of the nation in its unity. The modern idea of the state is not religious, but not therefore irreligious, i.e., it does not make the state depend upon religious belief, but it does not deny that God has made human nature and that His providence has a part in the government of the world. Modern political science does

3. The ideal of the medieval state was not indeed like that of the old oriental peoples, a direct theocracy, but an indirect theocracy. The ruler was the vicegerent of God.

4. The medieval state depended upon community of belief and demanded unity of creed. Unbelievers and heretics had no political rights, they were persecuted and exterminated, at the best they were merely tolerated.

5. Medieval Christendom considered the church as spiritual and therefore higher; the state as bodily and therefore lower. Thus the rule, or at least the guardianship of the priesthood was above that of kings. The clergy stood high above the laity and enjoyed immunities and privileges.

not profess to comprehend the ways of God, but endeavours to understand the state as a human institution.

3. All theocracy is repellent to the political consciousness of modern nations. The modern state is a human constitutional arrangement. The authority of the state is conditioned by public law and its politics aim at the welfare of the nation (the common weal), understood by human reason and carried out by human means.

4. The modern state does not consider religion a condition of legal status. Public and private laws are independent of creed. The modern state protects freedom of belief and unites peacefully different churches and religious societies. It abstains from all persecution of dissenters or unbelievers.

5. The modern state regards itself as a person, consisting at once of spirit (the national spirit) and body (the constitution). It feels itself independent, even as against the church, which is likewise a collective person, consisting of spirit and body, and maintains its

6. In the middle ages the church guided the education of the young, and exercised authority over science.

Education

7. Public and private law were not distinguished, territorial sovereignty was held to resemble property in land and the royal power a family right.

Public and private law.

8. The middle ages produced the feudal system. The power of the state was split up, and there was a gradual descent from God to the king, from him to the princes, then to the knights and the towns. The organization of law was particularistic.

Particularism  
Centralization

9. Representation was according to estates. The aristocratic estates of the clergy and the nobility dominated. Law was different in each estate.

Representa-  
tion.

supremacy even over the church. It recognizes no superior status in the clergy, abolishes their privileges and immunities, and extends the authority of law over all classes equally.

6. The modern state leaves only religious education to the church, the school is a state school, science is free from ecclesiastical authority and its freedom is protected by the state.

7. Public and private law are distinguished and public rights imply public duties.

8 The modern state is an organization of the nation and preserves a central unity in its authority. States are formed on a national basis and tend to become great in size. Law is national and human and applies to all equally.

9. The modern state requires a uniform representation of the people. The great classes of the people have the chief power: the basis is democratic. Citizenship embraces all classes equally. The law is the



10. Great and small lords had the freedom of their dynasties and orders

Libertés—  
Liberty.

so extensively protected that the authority of the state was weakened.

On the other hand the peasantry were kept in an unfree condition.

11. The medieval state was merely a legal state, but the administration

Sphere of  
state action.

of justice was indifferently guarded and people were often left

to maintain their own rights. Government and administration were weak and little developed.

12. The medieval state had little consciousness of its spirit. It was

Unconscious  
custom and  
conscious  
legislation.

determined by instincts and tendencies. It gives one the impression of natural growth, custom

was the chief source of its law.

same for the whole country and people.

10. The modern state develops the common freedom of citizenship in all classes, and compels everyone to submit to its authority.

11. The modern state because constitutional is likewise a legal state, but at the same time it concerns itself with economics and culture, and above all with politics. Government is strong and administration is carefully developed with a view to the welfare of the nation and of society.

12. The modern state is conscious of itself, it acts according to principles and from reason rather than from instinct. Legislation is the principal source of its law.

## CHAPTER VIII

### THE NATIONAL STATE

In our last chapter, we have said that our modern state is a National state. It is quite different from the city state of Greece,

**The Nation State.** the Roman Empire and the world state of the middle ages. Its characteristic feature is the spirit of nationality which has created it. In Greece local outlook was strong and as such every locality came to be organized into a separate state. Even the physical features of that country helped such formation. In the Roman Empire it was the might of Rome and its legal organisation that transformed the city state of Rome into a vast empire. In the middle ages the universalism of the church was the real force behind the conception of a world state of Christian peoples. There is no doubt that the Roman empire with its peace and order was now 'a dream and a memory,' for the Holy Roman Empire was only a ghost of the old Empire, but it is no less true that the chief force of unity in the middle ages was Christianity with its emphasis on the equality and brotherhood of man. Europe was regarded as one great Christian family. In the modern age, however, all this has changed. Europe has come to be divided into separate states based on the conception of Nation and Nationality and the moving force is not Christian Ethics, but Nationalism. It is pertinent, therefore, to consider the exact meaning and significance of these terms in our modern political life.

"The word 'nation' " says Hayes<sup>1</sup> "is tantalisingly ambiguous." This is because it has always been used in a loose fashion. Etymologically, as derived from the latin word 'natio,' it means birth and race and in this original sense 'Nation' has been often used for a tribe or groups of people as descended from a common ancestor and thereby possessing

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<sup>1</sup> C. J. H. Hayes: Essays on Nationalism, p. 3.

the same language. It was further used in the medieval universities of Paris and Vienna<sup>2</sup> for a group of students coming from the same place so that blood and birth were its significant factors. But in the 17th century, it began to be used freely for the citizens of a sovereign state irrespective of blood or birth. In this sense, not only the English or the French people were a nation, but also the people of Switzerland or of Austria were to be regarded a nation. While the English or French could claim to have a common language if not the purity of race, the people of Switzerland were French, German and Italian in origin and as such spoke three languages and in the same way, Austria-Hungary was a 'museum of races,' there being an extraordinary diversity in the composition of its population. Thus this vague use of the term 'nation' made it essentially a political concept and made it synonymous with the word state itself.

It is in our own times, however, that the word has again been put to a searching examination and we have already alluded to it

**Its modern meaning.** in our definition of the term 'community' where we have said that *the nation is an area of common life, common traditions and common sentiments.*

Here, it has been completely dissociated from its political significance and has been clothed with a cultural character. It has also not gone back to its original meaning as based on a common birth or common blood only. People diverse in origin or stock, different in religion or language and even fundamentally opposed in their way of private life may yet form a nation in a certain sense. We cannot deny that people belonging to the same race, possessing the same religion and language and having the same customs, traditions and manners will make a good nation, perhaps a real one, but what we want to emphasise in our own times is the fact of *common* life and its effect on diverse peoples. Thus the Japanese because of their homogeneity are a real nation and so are Persians, Afghans and Turks, and equally are the people of Switzerland, apart from their political unity, a nation; for though composed of three distinct peoples, their common life has made them one people. The Swiss German or the Swiss French do not care

<sup>2</sup> C. J. H. Hayes: *Essays on Nationalism*, p. 4.

more for Germany or France: they care more for Switzerland—the land of their birth, adoption or choice with which is woven their own destiny. Similarly, the people of Canada are British or French in origin and yet they are more Canadians to-day than they are British or French. Similarly, India is another ‘museum’ of races, tribes, religions and languages and yet it may become a nation any day the Indians feel that they are a nation. The whole problem thus is psychological, cultural, spiritual—it is in the minds of the people who inhabit a certain territory that a nation is formed and exists. Unity in diversity is its feature: the development of a common civilization as seen through its institutions, common outlook, common aspirations and common ideals and sentiments is its chief material. As Zimmern says ‘If a people feels itself to be a nation, it is a nation.’<sup>3</sup> They must have within themselves the spirit of nationality.

But what is the spirit of Nationality? What is the meaning of the word Nationality? What is its significance in the making of a nation? These are questions which we will attempt to answer.

It was to atone for the corrupt or vague use of the word ‘Nation,’ says Hayes,<sup>4</sup> that the word Nationality was coined in the 19th century. While the word ‘nation’ still signified the people of a sovereign state, the term nationality began to be used for a people having the same language and the same customs and traditions. Thus though Belgium was *politically* a part of Holland, the Belgians formed a separate nationality as against the Dutch who formed a different and definitely separate entity. Both the peoples differed in religion, language, customs and manners and as such formed distinct civilisations. Similar was the case of Norway when it formed part of the state of Sweden. Austria-Hungary was a network of nationalities. In Switzerland also, as it has already been pointed out, though there is one state there have been three nationalities. In Britain itself the Welsh, the English and the Scotch are three different nationalities.

<sup>3</sup> A. E. Zimmern: *Nationality and Government*, p. 55.

<sup>4</sup> C. J. H. Hayes: *Essays on Nationalism*, p. 4.

But though this was the original use of the term 'nationality' it also began to be used indiscriminately and we can find instances of such misuse even in our own times. For those of us who have seen the syllabus of the I. C. S. or P. C. S. examinations can easily look into this use of the word Nationality. There we have to provide a certificate from the district authorities as to our Nationality—that is, not for the fact that we are Muslims, Hindus or Christians, not for the fact that we are Indians and not foreigners who have temporarily settled here but for the fact that we are British subjects. Thus the term Nationality in this legal sense has nothing to do with a common civilisation or culture: it is definitely political and as such connotes common political subjection. While an Englishman will write 'British subject,' an Indian will also write 'British subject' and a man of Hong Kong or Singapore too will write 'British subject.'

In our own days again, we have come back to a correct appreciation of terms. Just as the term 'nation' has been stripped of its acquired political attire, in the same way, the term Nationality has been rid of all superfluity. It has now become definitely cultural and spiritual. "Nationality" says Professor Zimmern, "is a form of corporate sentiment of peculiar *intensity*, *intimacy* and *dignity* related to a definite home country,"<sup>5</sup> and the people who are *united* by such a sentiment are a nation. Thus while the *people* themselves are a *nation*, the spirit which unites them is the spirit of nationality. Both the conceptions are essentially cultural and while the one represents the *body*, the other the *soul* of that body. Nationality thus is an *educational conception*: it educates the people

<sup>5</sup> Zimmern: *Nationality and Government*, p. 52. Mac Iver in 'Society: its structure and changes' (p. 66), also takes the same view when he says "we define nationality as a type of community sentiment, a sense of belonging together, created by historical circumstances and supported by common spiritual possessions, of such an extent and so strong that those who feel it desire to have a common government particularly or exclusively their own." Mac Iver also quotes Oppenheimer as explaining nation thus—"the Consciousness of nationality makes the nation, and not the nation the Consciousness of nationality."

to become a nation, to feel a nation and to make a nation.

Statehood and Nationality. and Zimmern has very clearly pointed out the distinction between Statehood and Nationality:<sup>6</sup>

While Nationality is subjective, Statehood is objective.

While Nationality is psychological, Statehood is political.

While Nationality is a condition of mind, Statehood is a condition in law.

While Nationality is a spiritual possession, Statehood is an enforceable obligation.

While Nationality is a way of feeling, thinking and living, Statehood is a condition inseparable from all civilized ways of living.

Nationality thus is not concrete: it is an abstract conception and as such *an idea*. The Nation is concrete. It is the *form* in which the *idea* manifests itself and there are active forces which generate this idea. These forces are the factors or elements of Nationality.

Among those elements which were once counted upon in the

**Factors of creation of nationalities and which may be called Nationality:** the 'objective tests' of nationality were Human Nature, Geographical conditions, common Race and Religion.

It was suggested, in the first place, that as man is a gregarious animal, he has got what Giddings calls the consciousness of kind, or the attraction of the like to like. Hence men have been drawn together in communities because of their nature. While this may be partially true in explaining the 'groupings of men': it is not the sole truth. Men have also come together because of common economic motives or pursuits or because of a common religion. Thus while 'human nature' remains a factor in the creation of human groups it is not a very important factor in the creation of 'nationalities' or nations as such, for here we emphasise the peculiar qualities of one human group as against all other human groups. Here the attraction is not of *man to man*. That might have been a *prior* fact. The immediate point of consideration is the *difference* of the way of life of one people as against

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<sup>6</sup>Zimmern: Nationality and Government, p. 51.

all others. It represents a peculiar unity of its own as against the diversities of other human beings.

Secondly, it has also been suggested that Geographical conditions make for unity and have therefore created nationalities. While

it is true that geographical conditions have been  
 2. Geographical conditions. useful in creating a common civilization, such as

the separation of India from all countries by the Himalayas and the oceans has created in India a civilization which may be called peculiarly her own, it is yet not true to say that it has created a nationality, though it *may be* helpful in creating a nationality. For instance, the geographical separation of Britain has created a civilization which we may call British and yet there are three nationalities in Britain itself—English, Welsh and Scotch. While in Japan besides a common civilization there also exists a Japanese nationality. Thus the natural frontiers as dividing the world into separate nationalities are not always correct. This was most significant in the old Austria-Hungary.

Thirdly, to say that common race as a general principle is a factor in nationality is wrong. It might have been true of one country or two in the past. But, on the whole, it

3. Common race. has, in fact, no basis for there is no people in the world which can boast of the purity of the race. Japanese and Chinese belong to the yellow race and yet they are separate nationalities. In China itself, the 'proper Chinese' are a different nationality from Manchu or Mongol so that the common race as a factor in nationality has become a myth.

Lastly, religion in the past did create nationalities such as the separation of Belgium denotes the creation of an independent state by Catholic Belgians as against Protestant Dutch,

4. Religion. but in our own days even the significance of religion has gone down for modern nationality may be composed of peoples of several religions. The Jewish nationality is still religious in character. It emphasises also its purity of race. Otherwise, religion as a force in Nationality is no longer true.

To sum up, we may say with Holcombe<sup>7</sup> that these so-

<sup>7</sup> A. N. Holcombe: *The Foundations of the Modern Commonwealth*, Chap. IV—Nationalism.

called 'objective' tests of nationality are no longer significant or operative. 'The basis of nationality is not to be found in

Objective tests are inherent mental or spiritual differences among no longer significant. human groups, or in racial heredity or physical environment.' They may only be partially helpful or might have been useful in the past. The real basis of Nationality is to be found in human culture and civilization. It is the mental trait of a people who have begun to call particular qualities as characteristically their own. Thus the subjective tests or the cultural qualities of Nationality are a common language, common historical tradition and residence, the common political institutions or political union and the belief of the members in the fact that they compose a distinct cultural society.

Language is the first important element in the conception of Nationality because it promotes 'likemindedness' which in turn leads to 'group-consciousness.' Before the intro-

**2. Subjective tests.**      **duction of English as a medium of instruction in India, we had no such common language by which,**  
 (i) Language.

for example, the people of the South could have any intercommunication with the people of the North, and 'Persian,' though used even in our courts and offices, was still prevalent in the North only so that that language could never acquire an all India character. The effect of the English language in the unification and common understanding of Indian peoples has been so momentous that it can in no sense be underrated: it is still ~~besides~~ being the official language the chief medium of intercommunication and correspondence between all classes of educated Indians. Besides, we are developing Hindustani as our common language simply because the differences of Sanskrit and Persian or Arabic, Urdu and Hindi be minimised as far as possible for the healthy growth of a common literature. In this sense, the establishment of the Hindustani Academy in the United Provinces is a great step in bringing about an Indian Nationality. The present national spirit in India while it is the creation of the English language will further be heightened by the development of the national literature under the efforts of the Hindustani Academy.



Another important element in the conception of Nationality is the cherishing of common historical traditions and ideals. In India,

(ii) Common traditions and ideals. Hindus and Muslims have been living for centuries together. The 'superiority complex' of the

Muslims has already fallen by virtue of an equal subjection to a third power along with the Hindus. Both are now feeling an inferiority complex. Our life therefore has come to be common—common school, common mohalla, common theatre and a common market. But still this phase has not become strong. Just as in the case of language we find Hindus and Muslims at grips in favour of Hindi and Urdu, in the same way, we easily develop symptoms of hopeless separatism. We have certainly common schools, but there are also separate sectarian schools like Islamia schools, Kayastha Pathshallas, Agarwal Vidyalayas and so on. Even our Universities are Hindu and Muslim. We have, further, common mohallas, but the occasional riots in the country have made for a temporary tendency towards segregation—a Muslim in a Muslim mohalla, a Hindu in a Hindu mohalla. A hundred other examples may be cited from our social life which go to prove that we are passing through a great transitional period in our history. Yet in spite of these facts none can deny the rise of common aspiration and the complete realisation of a common destiny. All these are elements which in the end will go to create an Indian Nationality.

Thirdly, common political institutions or common political union and a common residence also create the spirit of Nationality.

This we have already found true in the case of 3. Common political institutions. Canada where both French and English Canadians have begun to feel more for their country than for France and England. This is true of India also. It is the unification of Indian territories under the British Government that has led to the unification of the Indian peoples. In fact, at no part of India's History, such a common outlook was ever created.

Lastly, there comes to be engendered in the minds of the people the idea that they compose a distinct cultural society. This is perhaps the crowning idea in the completion of the conception of Nationality, for as soon as the pride of one's own institutions or ideals is born,

4. Belief of oneness.

a nation or nationality is also born. We in India have yet vaguely realised this phase in our life. We still emphasise the greatness of ancient Hindu culture and the grandeur of Islamic achievements and civilization. We still lack an Indian culture and as soon as it is forthcoming the Indian Nationality would not be very far off. Hence the great demand of Nationality is the assimilation and the fusion of cultures and the creation of one which may be called our own. It is this which we are lacking: it is this which we badly need.

Having thus analysed the terms Nation and Nationality we may now take up Nationalism, for its meaning would not have become

**Nationalism.** clear to us without having first considered the terms Nation and Nationality,—words from which the very word Nationalism is derived and words upon whose meaning depends the meaning of Nationalism.

**Its various meanings.** The term 'Nationalism,'<sup>8</sup> as Hayes has again very clearly pointed out, has been used in a variety of ways:

It has been used for an actual 'historical process'—the process of establishing nationalities as political units. Thus the period from the 15th to the 19th centuries in

1. A historical process. Europe in which national states were carved out and created represents a period of nationalism.

The process began with the creation of England, France and Spain as separate kingdoms. It continued through the establishment of the Dutch and the Swiss Republics and reached its climax in the unification of Germany and Italy. Thus the whole period is a period of the origin and development of Nationalism. It represents the process of creating nationalities. As Hayes says, first it inflamed the visionaries, then it grew strong with the classes and latterly it has possessed the masses. From unconscious process nationalism became an idea, from idea, abstract principle; then fervid prepossession ending where it is to-day, in dogma, whether accepted or evaded.

It has also been used for the theory, principle, or ideal implicit in the actual historical process. Thus, in the very beginning,

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<sup>8</sup> C. J. H. Hayes: *Essays on Nationalism*, pp. 5-6.

nationalism meant freedom from the yoke of the Pope and it

2. The theory expressed itself in the establishment of separate kingdoms under National monarchs. This is behind the historical process.

what Machiavelli pleaded for in his 'Prince.' Then, it meant freedom from any yoke or the idea as set forth by Mill, 'One nation, one state.' The cases of Belgium and Norway come under this and the Nationalism in the East has also this point in view.

(3) Then we sometimes use a phrase like the Irish or Indian nationalism. This represents the peculiar feature of a nation's activities or principles. Thus we say that Irish

3 The peculiar principles of a people with regard to their spirit of Nationalism; nationalism has been violent from the very beginning. By this we mean, that the Irish have believed in force, in the cult of the bomb, as a measure in the achievement of their national freedom. In the same sense we can say that Indian nationalism is peculiar in several ways.

(i) While it began as a constitutional agitation, it has assumed several forms. It has tried even constitutional obstruction. It is using direct action. This direct action is not violent: it is to be non-violent in thought, word and deed. It is based on 'ahimsa' and truth. It believes in passive resistance. This does not mean that there are no people believing in violence. The bomb and the bullets have already been unfortunately used in many cases, but the vast majority of the Indian people stand for peaceful methods and condemn outright all violent measures.

(ii) Besides its non-violent character, Indian nationalism is not merely a political movement. It is also social, religious and economic. Khaddar is its economic creed, untouchability its religious phase and Hindu-Muslim unity its social aspect.

(iii) It is no *class* movement<sup>9</sup>: it is a movement of the whole people irrespective of castes, creeds or classes.

<sup>9</sup> The rise of the Socialist movement with the Congress Presidential Address of Pandit Jawahar Lal Nehru (1936) may bring about any change in the future, but at present there seems to be no change in all that I have written regarding the character of the Indian nationalist movement.

(iv) It is further a humanitarian movement: it is to help the down-trodden—the labourer and the agriculturist through that ‘outworn’ weapon—the Charkha (which is often so stigmatised).

Further, nationalism also represents a condition of mind in which ‘the members have a pride in the intrinsic excellence and the mission of the national state.’ Such was German

4. A condition of mind. nationalism. Germany had to propagate its ‘kultur’ throughout the earth because hers was the highest of cultures.

Lastly, nationalism has also been used for the policy or outlook of a particular party within a country or nation. Thus in our U. P. Council,<sup>10</sup> Mr. C. Y. Chintamani has

5. The policy of a particular party. been the leader of the *national party*. Here ‘national’ simply stands against *interest*—official or unofficial, Hindu or Muslim, landed or otherwise, so that it only emphasises the difference of outlook in viewing public affairs.

In short, while these are the different meanings of Nationalism, it has in actuality come to mean ‘*that every human being owes his first and last duty to his nationality, that national-ity is the ideal unit of political organisation as well as the actual embodiment of cultural distinction*

**The essence of Nationalism.**

*and that in the final analysis all other human loyalties must be subordinate to loyalty to the national state.*’ These tenets are the essence of Nationalism which is thus clearly the product of two factors—Nationality and Patriotism. While Nationality represents a corporate sentiment of peculiar intensity, intimacy and dignity with regard to a definite home country, patriotism may be said to emphasise:

- (i) That each nationality is to constitute a united independent state, (ii) and that every national state must have unquestioned obedience and supreme loyalty.

Patriotism.

From what we have considered about Nation, Nationality and Nationalism, the following conclusions may be usefully drawn:

**Conclusions:**

<sup>10</sup> This statement refers to our Provincial Council as it was constituted before the Act of 1935. Under this Act there are going to be established two Houses of Legislature in the United Provinces of Agra and Oudh.

(i) *A Nationality might exist without political unity and a state might embrace several nationalities.* The Jews from after the destruction of Jerusalem have always been a nationality without even a home, though they have always felt acutely for Palestine. Similarly, as we have already seen, Switzerland has three nationalities and Britain, Welsh and Scotch nationalities.

(ii) *A Nation is not necessarily a state any more than a state is necessarily a nation.* This is also the same thing which we have just seen. The Scotch though they are a nation, do not form a state. Similarly, Austria-Hungary was a state, but in no sense a nation, rather, it was a hotch-potch of nations.

(iii) The idea of Mill as summed up under '*One nation, one state,*' or '*each nation should form a separate state, each state to comprise a single nation.*' suggests the advisability of creating such national states, but it is not true of existing states as has already been amply demonstrated. This problem is of especial significance in the Balkans where an emphasis on this doctrine would bring about a sort of political confusion. There must remain 'national minorities' under each state that we may like to create.

(iv) If a nation becomes politically organized, it becomes a National state and this we can see in nearly every part of the modern world where a National state is the rule rather than the exception. *A National state is always based on nationality, but a nationality may exist without a national state.*

Before closing this chapter, we may better know the real character of the sentiment of Nationality or Nationalism in modern times. We have done away with the theocratic state, and yet have changed it only to become the slave of another master. The national state of to-day is as 'religious' as any state of the past, perhaps it is more bigoted and intolerant. Hayes has well compared modern nationalism with the old religion. Says he<sup>11</sup>:

The God of Nationalism is the Fatherland; the national state its mission, salvation or an ideal of immortality; flag its object of worship; it has its own processions, parades and pilgrimages. Its

<sup>11</sup> C. J. H. Hayes: *Essays on Nationalism*, Ch. IV.

theology is the constitution of the national state and the Declaration of Rights its commandments, so that in a very full sense Modern Nationalism has become a New Religion and as such the 'National' character of the modern state is the peculiar characteristic of modern times and civilisation.

## CHAPTER IX

### THE DEMOCRATIC STATE

Besides being a National state, we have said that the modern state is a Democratic state, and that it differs very greatly, both in size and character, from the democracies of ancient times. The Greek democracy was a city where all citizens gathered together and carried on the business of government. But this has become impossible in modern times. We have, therefore, adopted the so-called Indirect Democracy in which the people do not themselves assemble to transact their business, but indirectly, through their representatives assembled in a parliament or legislative body, carry on the purposes of government.

But though we have spoken of Direct and Indirect Democracy, we have not yet analysed the very word 'Democracy' itself. We have yet to know its meaning, the demands it makes upon human personality, its ideals and principles which we attempt to carry out in practice. It is true that its particular forms, methods, successes and failures fall within the domain of Comparative Politics, but it would not be going too far if we study its basic principles in Political Philosophy simply because our modern state is a democratic state.

The term 'democracy' has been derived from two words, demos and cratia, the former meaning 'the people,' the latter 'power.'

Democracy thus means 'people's power.' Hence it is a form of government in which the people themselves exercise power, whether they do it directly or indirectly through their chosen agents. This makes it clear that mere *acquiescence* by the people or giving *passive consent* is not enough to make a government democratic. It must be *real*, *active* and *effective* power that would make it a genuine democracy. As Ivor Brown puts it, it is 'their active passion for self-deter-

mination, a spiritual self-assertion, and an act of will<sup>1</sup> that would make a government truly democratic. Thus the true assertions of democracy seem to be:

- its assertions.
- (i) that none shall have power over the people;
  - (ii) that the people shall not be made to do what it does not like, and
  - (iii) that every man's free will shall be as unfettered as possible with due reference to the common good.

This means that tolerance or obedience to a government, however enlightened, would in no sense make it democratic: it is the firm resolution of the people to govern themselves that would make it so. It is to be in a very real sense, as Lincoln expressed it, *a government of the people, by the people, for the people*. Hence, as Washington said that eternal vigilance was the price of liberty, eternal vigilance is none the less the very life of democracy, or to use the words of Plato, the people ought to be their own 'watch dogs.' This, to be sure, is the real meaning of Democracy.

What do we mean, then, when we use the terms, 'Democratic Government, 'Democratic state' and 'Democratic society'? Are they mere unguarded expressions to denote the same thing and therefore superfluous? Certainly not. We use them in Political Science with a definite meaning.

Democracy, said Maine, was only a form of government and nothing else. But this is not true. It is not only a form of government, it is a 'form of state' and a 'form of society.'<sup>2</sup>

**The Democratic Government.** *A democratic government implies a democratic state, but not vice versa; also a democratic society can exist without either a democratic state or a democratic government.*

<sup>1</sup> Ivor Brown: *The Meaning of Democracy*, pp. 31-32.

<sup>2</sup> F. J. C. Hearnshaw: *Democracy at the Crossways*, Chap. I deals with the 3 aspects.



*A Democratic Government is that in which the people themselves transact the business of their government, whether this is done in a public meeting where they assemble together, or it is performed by their delegates<sup>3</sup> who cannot move even one inch against the wishes of the people and do everything according to their mandates.* The Greek Democracy, as we have seen, was of the first type, for people themselves carried on their business. This was also the ideal of Rousseau who believed that all governments have a tendency to deteriorate and therefore direct participation of the people was not only desirable but necessary. The second type in which the delegates cannot go beyond the mandate of the people is now found in Switzerland, and the people there maintain their control through the three instruments of Direct Democracy: The Initiative, the Referendum and the Recall.

*A democratic government thus necessarily involves a democratic state, but it is not necessary that a democratic state must in every case have a democratic government.* It is quite

**The Democratic state.**

consistent with any type of government, democratic, aristocratic or monarchic. Thus in modern times the work of government is carried on by representatives of the people, for our large territorial states make direct assembly impossible. Hence we have so arranged matters that whatever the type of government, the real control of affairs always rests with the representatives of the people assembled in Parliaments or Congresses. In this way, it has been made possible that a democratic state may have a monarchical government and yet the interests of the people do not suffer. For example, England to-day is a perfect democratic state, but its government is a monarchy. Similarly, U. S. A. is a democratic state but its government is a 'veiled' monarchy. The latest example is the dictatorship where even this 'veil' seems to have been cast off and the dictators are being elected

<sup>3</sup> We may here mark the difference between a *delegate* and a *representative*. Burke was the first man to point this out. A delegate is 'His master's voice' who cannot say or do beyond what he has been instructed, while a representative is one who while representing his constituents would exercise his judgment and choice and will not be so bound as a delegate. As Godkin says, a delegate votes not on what he thinks best but what his constituents think best, while a representative votes more on his conviction than on a forcible dictation.

by the people. Thus a democratic state is one in which the people as sovereign maintain ultimate control over affairs and determine the type of government they should have.

*A Democratic Society is one in which equality of human beings is the rule rather than the exception.* The brotherhood of man is its

**The Democratic Society.** basis. Differences of high and low, of noble and base, of wealthy and poor do not count.

All stand equally in their common fraternity. In India, the Muslims and Christians have a democratic society, but the Hindus lack it. The caste among the Hindus is the very negation of a Democratic Society. The 'doctrine of untouchability' as propounded and pushed forward by Mahatma Gandhi is a democratic move and his Fast of September 20, 1932 was an important milestone in the realisation of a democratic society. For equality as a foundation-stone of democracy is not a mere verbiage: it is to be realised and practised in social life—in customs, manners and traditions.\* Hence the opening of wells, of temples for the depressed classes or Harijans is a move in the right direction just as common dinners and inter-caste marriages may be regarded as good signs of the coming democratic society.

*A democratic society may have a democratic government, and may even be a democratic state but it is not necessary, or at least always possible, that a democratic government or*

**Differences underlying the three terms.** *a democratic state should also have a democratic society.* The Greek democracy in this sense was

not a true democracy: it was rather an aristocracy, for the slaves and the working classes could not take part in the administration. Half the population was therefore always disfranchised. Equality in Greece existed only in citizen qua citizen, and only this much was democratic, otherwise, on the whole it lacked a true democratic idea. The Muslim city state of Medina under the first Caliph Abu Bakr (peace be on him!) was a true democracy for a democratic society, without any differences whatsoever, sharing in the equality and brotherhood of a common faith, performed their functions in a public assembly without disfranchising even an insignificant

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\* Among the Hindu religious festivals, Holi perhaps is the most democratic festival.

minority of their population. It was therefore very clearly a democratic state also. In the modern times, however, it was only in Czarist Russia that an autocratic system of government formed a superstructure of a democratic society. England and other democratic countries have democratic states, but no democratic society. U. S. A. was far more democratic than European democracies because of the absence of high and low classes, but *wealth* and capital now have introduced that element of disintegration. Socialism is, however, everywhere creating a social democracy, but at present the result has been just the reverse. It has further created, rather intensified the classes—the Capitalist *versus* the Labourer, the haves *versus* the have-nots .

After thus discussing the democratic government, state and society, we may now ask: What is truly 'democratic'? Is it sufficient to say that 'democratic' is that which

**What is truly democratic?**

breathes of people's power or that in which the egalitarian idea is very prominent? How can we say 'yes' when we are not sure even of the meaning of the word 'people,' when we see the daily conflicts of 'majority' and 'minority.' There may not be the differences of caste or creed, of birth or wealth, but there are bound to be differences in opinion which means that we do a thing to which the majority agree. What then of minority? Is it to be ignored or crushed down? If we do so, is the majority opinion, the opinion of the people. Further, besides the term 'people,' we also find difficulty in the term 'equality.' What is 'equality' when we find that no two men are alike. These are questions which we have yet to answer to completely understand the democratic idea.

**The democratic idea.**

What then is the democratic idea? What are its bases, its essentials? Ivor Brown has tried to answer them thus:

*It involves an action of 'will.'* This means that the people as a whole ought to be *conscious* of what they have to do and not to do. Mere passive acquiescence to government would not do. We should not be silent spectators or silent partners. We should actively participate.

1. Involves an action of will.

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<sup>6</sup> Ivor Brown: The Meaning of Democracy, Ch. XIII.

We should not be static. We should be dynamic. We should get our voice heard and things done as we like. Silence, as Laski suggests, is death. We should speak and speak boldly. We should protest so that injustice may not be done, tyranny may not be perpetrated. This is the secret of freedom. Liberty cannot survive without boldness, without courage, in one word, without self-expression. Liberty and self-expression are the very breath of the democratic idea. To be *articulate* is its very life: to be dumb its demise. It is our *will* and will alone that can save us from disaster, from slavery which is the very antithesis of the democratic idea. Self-direction of our own affairs is the only guide: paternalism, however enlightened runs counter to our real purposes, our real happiness.

*The democratic idea involves the idea of fellowship, it may be the fellowship of the family, of the school, of a nation or of the whole world. We are living in an era of nation states and are moving towards a world fellowship.*

2. Involves fellowship. Democracy in the highest degree demands this fellowship in comparison to any other form of government. Fellowship means brotherhood, fraternity, a common consciousness of a common end. It means, as Giddings said, the true 'consciousness of kind' and it involves equality. It cuts at the root of all class distinctions, religious hatred and racial prejudices. It appeals to our common humanity. It stands for cooperation, not conflict. It does not rule out competition, it does not rule out differences, but it must be healthy competition and they must be healthy differences. The differences are not to be made permanent, thus dissecting the society: they are to be reconciled, to be integrated. Assimilation, not separation is to be the rule. The differences of majority and minority opinion are healthy only if they are guided with due reference to a common good. Each side should try to propagate its opinion; but once the decision has been taken, the defeated party should not only acquiesce, it should help. This is true resignation: this is true service and this is all that is demanded by a common fellowship in a democracy.

*It involves responsibility.* Each human being is not simply to be a citizen, but a good and intelligent citizen. We do not require

a sheep-like behaviour, a crowd mind. We want *independence* and intelligent grasp and discrimination as great qualities for a real democracy. This involves several important considerations:

3. Involves responsibility.

In the first place, Education comes to be the very backbone of democracy for how can an average citizen become intelligent without a good mental training. Universal compulsory education is thus the very core of the being of a democracy. Without it, it would certainly remain a 'cult of incompetence' as Faguet would call it. With education, it would truly become and every remain a doctrine of the common good. As Rousseau would put it, every individual would then better know that he is both a sovereign and a subject, and must therefore fulfil the obligations of both. And this is responsibility which we are considering.

Secondly, intelligent citizenship also demands a high degree of Common Sense and activity, and Bentham summarised this in one sentence when he said "While I will obey punctually, I will censure freely." Every citizen is thus to be a good critic, an independent critic in no sense obsessed by a selfish individualism. He has to think not alone for himself or his private interest or the interest of his clique or party: he has to think for the whole. This is true duty, true service and a realization of true responsibility.

Thirdly, the question of Civil and Political rights is another great consideration. A civil right is the freedom of any and every citizen. It is an explanation of that meaning of political rights. and liberty which is styled as 'true freedom is limited freedom' or that the liberty of one ends where that of another begins. It is a rule of social life, of social harmony. It represents the *minimum* that we claim as citizens. It is therefore guaranteed by law to each and every citizen. But political right differs very greatly from civil right. The latter is a right, a claim or a privilege of a citizen; the former is his duty; it denotes his service. It is not his *irreducible minimum*. It is a *public trust* which none can exercise without being worthy of it. Thus while all men can claim and do claim civil rights, they cannot claim political rights. For instance, the question

of electing our own Governors in a democracy is a political one. While every citizen may exercise the right of voting as a civil right, he cannot claim to be a 'governor' sometimes, or in rotation. Governors or representatives can only be those who are worthy of certain defined functions or qualifications; and the community is the only judge of their suitability; but this does not mean that the individual will have no say in the affair. In fact, the greatest responsibility of electing lies on him. This is why he ought to be well instructed and independent so that he may not be led away by false passions, shibboleths or magnetic influences of wealth, power or prestige. Herein lies the greatest demand of democracy upon the individual and it is upon this that the success or failure of democracy depends.

Besides Ivor Brown, Prof. Hearnshaw has also laid down the following as the *five postulates of democracy*: viz., (1) Social equality, (2) fundamental honesty of men in general, (3) normal common sense, (4) quasi-organic unity, (5) its possession of a general will. All of these we have already covered under the three points of Ivor Brown, but something may further be said of each to make them more explicit and clear.

(1) Social equality is certainly the backbone of democracy and means that there should not be vast differences of wealth and

(1) **Social** poverty, of classes and castes within a community equality. for they cut at the very root of a common life. It is only a society of equals that can live in harmony.

But we had occasion to remark that 'equality of human beings' seems to be an illusory idea as no two men are alike, for there are not only physical differences between one man and another . . . one is weak, the other is strong . . . there are also moral and intellectual differences, in the qualities of the head and the heart. What then is really meant by equality?

The question turns upon what we style the 'average man' and what Delisle Burns has preferred to call the 'common man.' Who

is a common man? 'By the common man is meant,' says D. Burns,

**The real meaning of Equality.** 'that part in each man, woman or child which is blood and bone, which eats and sleeps and moves, occasionally works and plays, and is

compelled, after some years of decreasing physical energy, to die.'<sup>7</sup> Thus the common man represents a certain amount of bodily behaviour, some impulses or tendencies, inherited or shared with many, some intelligence and some emotional reactions. In this way, the dominating features of human beings are the same and they are therefore to be treated as equals. This is what Kant meant when he said that man was to be treated as an end in himself and not as a means. This was also the meaning of Bentham when he said that every man was to count for one and for not more than one. Man as man had equal worth, and equal worth in no sense means equal capacity. This is why we have said that while every one can claim civil right by virtue of his humanity, he cannot claim political right which was a matter of capacity. It is true that capacity is not associated with any class or sect: it is a question of opportunity which if correctly used develops the latent powers of human personality in its manifold varieties. It was for this opportunity that Mill and Humboldt were trying when they said that every one should be allowed by the state to do what one liked according to his natural propensities and desires. In this way, Democracy comes to be based on human personality and personality involves liberty, equality and fraternity. This is why we emphasise equality before the law and equality of opportunity, meaning thereby that in the matter of civil right there should be no differentiation between man and man and that no one should be hindered in any way from following what suits his nature. These cut at the very root of castes, classes, birth and wealth. In fact all privileges which have debased and divided men and have obscured their common destiny. Fair and open field for all and no favour is thus the meaning of social equality in Democracy and its corollaries are political equality in the exercise of rights and economic equality in the matter of opportunity. This is social justice and this is what is meant by equality as the very

<sup>7</sup> Delisle Burns: Democracy, p. 18.

life breath of democracy. It is an assertion of supreme spiritual dignity and moral worth and is a doctrine of personal responsibility and personal initiative. This explains the meaning of the oft-quoted remark that 'the world is to be made safe for democracy' and not 'democracy is to be made safe for the world.'

Honesty of men in general as a postulate of democracy again turns upon the nature of men. From times immemorial the nature of man has been differently interpreted by

**2. Honesty of men in general.** philosophers of all ages and climes. In China

some regarded the nature of man as essentially bad, others as good, and still others as neither good nor bad in the beginning, but developed one way or the other by nurture. Similarly, in modern times, Hobbes considered man as by nature selfish and quarrelsome. But it was Aristotle who struck the right note when he said that man by nature is a social animal. Besides emphasising the fact of his economic dependence upon others, he also emphasised his psychology which forces him to seek a wife for propagation and therefore children also to be his successors. Human life as consisting of families is thus a life of love and cooperation and not of conflict as Hobbes pictured it. This shows that an average man is not a thief: he possesses goodwill without which no cooperation, even between husband and wife, is possible. This is his honesty and this is meant by the term honesty of men in general in a democracy. For while a monarchy or aristocracy as wishing the good of one or a few may thrive on any basis, Democracy as wishing the good of the many cannot thrive unless its individuals are honest, honest in the sense of possessing a reasoned conviction, refined habits and an unimpeachable character. These are certainly high demands upon human personality, but they must be realized to achieve the democratic ideal. We in India, specially the Muslims and Hindus, lack very greatly this integrity of character. We are dishonest because we have innumerable mental reservations. We are nationalists in public, in playgrounds and in schools, but we are perfect 'communalists' at home. In fact, we are 'communalists' everywhere because we are 'communalists' at heart. We conceal. We hide. We are never outspoken. We are not truthful. We have no love of justice. We are partisans: we are partial, we



evade. This is all that is meant by base and mean and this is the negation of that very thing we are trying to achieve—democracy. A change of heart, clear thinking and courage are all that are required for that integrity and soundness of character which is the backbone of democracy. We have to rise to the occasion of pure ideals that can make democracy safe for us otherwise it will prove a bad bargain, and an impenetrable mirage of hopelessness and failure. Real honesty is required and it is this honesty which is the blood and bone of the democratic ideal.

Common sense of men in general is the third postulate of democracy. We have already said sufficiently on this point in so

**3. Common-sense of men in general.**

far as it means that democracy is the very antithesis of ignorance. A citizen of a democracy is not merely to obey: he has also to see if his obedience is rational. As Bentham would have said, to him the government is always a thief and he is a detective. Vigilance, wisdom, intellect “besides honesty” are expected of him as great demands of the democratic ideal and this can only be done by a sound education—mass or compulsory education. When for men in general Lincoln could say ‘you can fool part of the people all the time, and all the people part of the time, you cannot fool all the people all the time:’ it would become infinitely more difficult to befool them when they would have a regular education. This common sense of men which has been given expression to by Lincoln, with education, will become very much profound, sound and articulate.

The quasi-organic unity as the fourth postulate of democracy has also been already considered. It simply means that with

**4. The quasi-organic unity.**

diversities, however real and glaring, there should at least be some semblance of unity. Class war which is now the bane of Europe, religious antagonism which is now the curse of India and Palestine, racial conflict, colour bar and minority and majority tyrannies which are prevalent throughout the world are diametrically opposed to the democratic ideal. The great principle of democracy, therefore, is unity in diversity, a synthesis of contradictions, in one word, assimilation or integration.

It is this assimilation or integration highly developed which has been styled as the General Will. It represents a single voice of the nation, its corporate will. It is always dis-

**5. The General will.** interested and therefore stands for the common good. The majority may rule but always in the interest of the whole. It is this that we desire and it is the ultimate end of the democratic ideal. The democratic ideal thus stands for all that is highest and noblest in human beings—*the truth and the seeking of it, the beautiful and the making of it, the good and the doing of it*; and if our modern state falls far short of the ideal, it is because men themselves have not yet risen to the occasion. It ought to be their endeavour to achieve in practice what they have already achieved in thought, and if this is accomplished, they will reach the millennium.

## CHAPTER X

### THE SOVEREIGN STATE

The word sovereign is derived from the latin 'Superanus,' meaning one who is supreme over others. Sovereignty thus means

**The term sovereignty and the sovereign state.** supremacy in the sense that there is no other power higher than it. It is the highest power in any given territory, and as such has been regarded

as one of the most important elements of statehood. We had already occasion to see that unity was the great characteristic of a state and by unity we meant that both externally and internally, the people of a state obeyed *one power and one power only*. There was to be no division in the allegiance of the people. Thus sovereignty comes to represent the unity of the state, and the sovereign state is one which is externally free, and internally supreme. India is not a sovereign state, because the supreme power in India takes its orders from outside, that is, from England and our native states are only mere provinces for both externally and internally the ruling princes find themselves handicapped by a sovereign authority. In this sense, England, Turkey, Afghanistan and Japan are sovereign states because the supreme power in their land owes no allegiance to any other superior and is free and independent in all its actions.

But this notion of sovereignty as suggesting the supreme power in a territory is modern and its emergence is connected with the rise of the modern national states. But it does not

**Evolution of sovereignty.** mean that the ancient and medieval ages had no idea of such a notion. What we mean is that the peculiar sense we now attach to the word sovereignty was never emphasised by the earlier ages and, to our surprise, they never even used this term to denote the supreme power. Nevertheless, we cannot say that the modern notion is a sudden outgrowth or it is a revelation from God. It has its deep roots in the past.

Thus P. W. Ward notes three general phases  
**Stages in its evolution.** in the whole history of the modern conception of sovereignty.<sup>1</sup>

In the first place, it has emerged from the complex materials of ancient tradition and late medieval usage. Secondly, it was specifically enunciated and applied by the absolute monarchs of the early modern period. Thirdly, it has been repeatedly interpreted since 1688 with the historical rise of responsible government.

The Greeks had their own self-sufficing, free and independent city states and had known not only a supreme authority in the person of a king, but also of the whole community.

In Greece

They talked of law as their master.<sup>2</sup> Plato speaks of his Philosopher-king as the Guardian while Aristotle clearly sets forth his classification of states on the basis of the supreme authority in the city states whether it was to be in the hands of one, the few or the many.

In Rome, the people were ever regarded as the supreme authority and the magistrate exercised his '*imperium*' only because the *Populus Romanus* had willed it so. Then the Emperors tried to do away with the Dualism connected with the power of the Senate so that the deification of the ruler established an unquestioned supremacy of the Emperor.

In Rome

But the immediate roots of the modern notion of sovereignty can directly be traced to the Feudal system. Just as in the *evolution*

The Feudal system

of the state, the territorial idea was the legacy of feudalism. in the same way in the *conception* of the state, the element of sovereignty is also its bequest. for in the hierarchy of feudal gradation each holder of authority was a *suzerain* in his domain. Sovereignty thus came to mean overlordship, and suzerainty represented an authority that recognised another superior lord. In Roman terminology, suzerainty was equal to the *magisterial imperium* which was a derived power from the supreme people. Thus sovereignty became synonymous with *finality of authority*, and with the dawn of the modern era and the establish-

<sup>1</sup> P. W. Ward: Sovereignty, Chap. I, pp. 1—48.

<sup>2</sup> A. E. Zimmern: The Greek Commonwealth, p. 123.

ment of national kingdoms, the king became the sovereign. In this way, the modern notion of sovereignty was the product of the past—the conception of the supreme power was ancient, and the territorial overlordship as connected with rights and duties, protection and service was medieval.

But it was not simply in the feudal organisation that we come across the term sovereign. Bryce tells us<sup>1</sup> that even the heads of monasteries were familiarly described as sovereigns in the middle ages and in Ireland down to recent times even the heads of municipalities were called sovereigns. Gierke, however, points out that it was with the rise of the Papacy as the supreme power in Christendom that the idea of the monarchical omniscience made its first appearance, for the Emperor had been reduced to a shadow, while the kings of England, France and Spain had become vassals of the Pope. But soon these princes became restive and led a revolt against the power of the Pope, and it was in this struggle of the church, victorious over the feudal empire, with the feudal lords of Germany, France and England, that the modern concept of sovereignty was developed. Philip the Fair of France and Lewis of Bavaria became the leaders of the movement and the king of a nation began to be styled its emperor so that the royal domain became the organisation of the nation with the king as its sovereign. Nor were theoretical apologists of this kingly power wanting. Peter Dubois and Machiavelli took up the cause of the national prince till the concept of sovereignty received its classical statement at the hands of Bodin and Hobbes.

Such, in brief, is the emergence of the modern notion of sovereignty as the supreme power in a territory. Hence-forward, the problem of the political philosopher comes to be its interpretation according to the demands of a situation. But before we do that in detail, we may better be clear about certain aspects of sovereignty which have come in vogue.

(1) Sovereignty, sometimes, is spoken of as *Real or Nominal*.

<sup>1</sup> Bryce: *Studies in History and Jurisprudence*, Vol. II, p. 51, footnote.

Thus in the English Constitution, the king is a *nominal sovereign*, and the King in Parliament the *real sovereign*.

**Various aspects of sovereignty:**

1. **Real and Nominal.** This distinction is based on the division of supreme power and its location. The titular or nominal sovereign has no real power with him: he has no finality of decision or command, though every thing may or may not be done in his name. An absolute monarch, however, is all powerful. King Zahir Shah is not a titular head of a government, he is a real sovereign because he is the source of all commands, the final authority in all business of the Afghan state.<sup>4</sup>

(2) Sovereignty, again, is styled as *Legal and Political*. For purposes of law, in every state, we must always have some power which is determinate and visible in the sense that the people may appeal to it as the final authority.

2. **Legal and Political.** Thus if we say that the people are sovereign, we have no *determinate* superior towards whom we can look for the redress of our grievances, but if we say King Zahir Shah is sovereign, every one of the people can look towards him for protection and redress of grievances. Hence we call that sovereignty 'legal' which is represented by some visible superior, and the power that lies behind the legal sovereign is styled as political sovereign. In this sense, the Afghan people are political sovereign because they are the source of the power of the legal sovereign. Similarly, in England the English people are political sovereign and the King in Parliament, the legal sovereign.

(3) Further, Sovereignty has also been styled as *de jure* and *de facto* . . . in law and in fact.<sup>5</sup> We know that in Afghanistan it was Amanullah who as successor of kings Abdur

3. **de facto and de jure.** Rahman and Habibullah was regarded as the real sovereign or the supreme authority of that country. He was the source of all laws, the final arbiter of every thing that concerned his country. His authority was not only recognised supreme by his own people, but also

<sup>4</sup> Now the Afghans also talk of their state as the Constitutional state.

<sup>5</sup> Bryce: *Studies in History and Jurisprudence*. Vol. II, pp. 51—82 gives a detailed consideration to these aspects which may be read with profit by every student.

by all other nations and states. His sovereignty was therefore de jure. But after the rebellion, King Amanullah had to leave Afghanistan and Bacha Sakao became powerful at Kabul. He became the de facto sovereign of that country, but he could not make his sovereignty de jure because he could not maintain his power as against other rivals. Thus after the conquest of Afghanistan by the late king Nadir Khan, the de facto sovereignty of Bacha passed to Nadir Shah. Now since that time King Nadir Shah had not only been recognised sovereign by the Afghan people: he had also been recognised as such by other nations and states. In this way, his de facto sovereignty had passed into de jure sovereignty he was the king not only in fact, but also in law. Thus a de facto sovereignty becomes de jure *only by its permanence* which is the most important factor *even in its recognition by other sovereign states*.

Having seen the different aspects of Sovereignty, we may now return to the modern notion of sovereignty which, as has already been stated, has undergone constant change owing to the rise of new situations and conditions. Lord **Various views of Sovereignty.** sums up modern notions under three heads: Juristic, Historical and Philosophical<sup>6</sup>; a fourth may now be added which may be called the Pragmatic view of sovereignty.

### 1. The Legal View of Sovereignty:

It was the legal view of sovereignty that was first set forth by Bodin and Hobbes and later on expounded and developed by Bentham and Austin. Bodin had found in the French king an absolute monarch towards whom the people could look for protection and who was the source and means of the unity of the French state. As such, the king was the visible superior as the author and disposer of law and hence there was no need to invoke the help of God in establishing the right of the King. It was already an established fact, for, as Bryce has pointed out, several factors had helped the rise of this new interpretation,<sup>7</sup> viz.:

<sup>6</sup> Lord: Principles of Politics, pp. 65-66.

<sup>7</sup> Bryce; Studies in History and Jurisprudence, Vol. II, p. 82.

- (1) The Emperor died out as a universal sovereign, and became thenceforth little more than a German monarch.
- (2) The Pope himself lost his power and influence because of Renaissance and Reformation.
- (3) The feudal structure of society began to crumble away and therewith the power of the Crown in each country grew.
- (4) And a new spirit of enquiry fostered by the Renaissance sprang up which proved to be destructive of old idols.

Bodin was thus the first to make use of the prevailing tendencies both in fact and ideas and the French monarch appeared to him to be the real sovereign. Sovereignty to him

**Bodin.** became 'the supreme power over citizens and subjects unrestrained by the laws.' It was absolute being the source of all laws, but itself not bound by those laws. Sovereignty also was perpetual, unlike that of a usurper or dictator whose tenure was only temporary. It was, further, indivisible or imprescriptible so that sovereignty was the real characteristic of the unity and the permanence of a commonwealth. "The sovereign must be wholly independent of any higher law-giver. Bodin enumerates nine degrees of subjection and declares that none but he is absolute who holds nothing of another man."<sup>8</sup> He makes peace and war, appoints magistrates and in all cases is the final court of appeal. Oaths of fidelity are sworn to him and he is the only authority that can pardon treason. He is the author of all taxes and issues all coinage so that in all respects he is the final arbiter of all matters of state policy. Though above his own laws, the sovereign was *not* above *all* laws. He was still subject to the laws of God,

Moral and real checks on the laws of Nature and the laws of Nations. Thus sovereign.

Bodin recognises moral limitations on his sovereign. And not only these: he also recognises certain other real checks on his power: *e.g.*:

- (i) He is bound by the contracts and treaties that he makes with his subjects or other states.

<sup>8</sup> Merriam: History of the Theory of Sovereignty, p. 14.



(ii) He cannot seize or grant away the property of his subjects at his will and

(iii) He is also bound by the so-called fundamental laws of the kingdom.<sup>9</sup>

In these ways, Bodin confused his purely juristic view of a sovereign power by moral and political considerations.

It was left for Hobbes to give the boldest, the most logically complete and the most thoroughgoing exposition to this view of sovereignty, though the means through which he reaches his conclusions make his sovereignty

**Hobbes.** political also. Legality and policy coincide and moral considerations have no place. In the contract which is made to erect a common-wealth, the sovereign is no party, and all individuals have unconditionally given themselves over to his protection. He is therefore not only absolute: he is irresponsible not bound by any laws, human or divine. His will is law for he, in his person, represents the people also. He is therefore both the government and the state. He is the legal sovereign as well as the body politic. Thus Hobbes confuses legal and political, government and state, and yet for purposes of law, the legal omnipotence of his sovereign is beyond question, and he summarises all the *'rights and faculties'* of his sovereign as detailed below:—

(1) The subjects cannot change the form of government for “they that have already instituted a commonwealth, being thereby bound by covenant, to own the actions and judgments of one, cannot lawfully make a new covenant amongst themselves, to be obedient to any other, in anything whatsoever, without his permission.” They cannot even bring in the authority of God for his deposition “for there is no covenant with God, but by mediation of some body that represents God’s Person, which none doth but God’s lieutenant, who hath the sovereignty under God.” In this way, the sovereign, and not the subjects, is the interpreter of God’s commands and as such is the only true mediator between God and Man.

*Rights and Faculties of Hobbes’ sovereign.*

<sup>9</sup> *Ibid.*, p. 16.

<sup>10</sup> Hobbes: *Leviathan*, Ch. XVIII.

(2) The sovereign power cannot be forfeited "because the right of bearing the person of them all, is given to him they make sovereign, by covenant only of one to another, and not of him to any of them; there can happen no breach of covenant on the part of the sovereign, and consequently none of his subjects, by any pretence of forfeiture, can be freed from his subjection."

(3) No man can without injustice protest against the institution of the sovereign declared by the major part, that is, if the majority have agreed to one man's sovereignty, the minority must submit for, in the first place, the fact that they too had assembled in the congregation means their tacit consent and secondly, if they do not, then, they remain in the State of Nature and therefore may 'without injustice be destroyed by any man whatsoever.' Hence there is no course left to the minority but unconditional submission to the sovereign authority which is therefore all comprehensive.

(4) The sovereign's actions cannot be justly accused by the subject for his actions are his actions—"every particular man is author of all the sovereign doth, and consequently he that complaineth of injury from his sovereign, complaineth of that whereof he himself is the author, and therefore ought not to accuse any man but himself, no, nor himself of injury, because to do injury to oneself is impossible. It is true that they that have sovereign power may commit iniquity, but not injustice or injury in the proper signification."

(5) Whatsoever the sovereign doth is unpunishable by the subject "for seeing every subject is author of the actions of his sovereign he punishes another for the actions committed by himself."

(6) The sovereign is the only judge of what is necessary for the peace and defence of his subjects "by prevention of discord at home, and hostility from abroad; and when peace and security are lost, for the recovery of the same."

(7) He is therefore also the judge of what doctrines be taught to the subjects 'for the actions of men proceed from their opinions, and in the well governing of opinions consisteth the well governing of men's actions, in order to their peace and concord.'

(8) The sovereign has also 'the whole power of prescribing the Rules, whereby every man may know, what goods he may enjoy and

what actions he may do without being molested by any of his fellow subjects. . . . These rules of propriety (or Meum or Tuum) and of good, evil, lawful, and unlawful in the actions of subjects, are the Civil laws.'

(9) To him also belongeth the right of all judicature and decision of controversies regarding law, civil or natural or concerning fact.

(10) He has also the sole power of making war and peace as he shall think best . . . 'how great forces are to be assembled, armed and paid for that end, and to levy money upon the subjects, to defray the expenses thereof.'

(11) It is also annexed to his sovereignty that he should choose counsellors, ministers, magistrates and officers both in peace and war.

(12) He has also the final power of rewards and punishments, and of titles of honour to his subjects.

In these ways, these rights make up, as Hobbes says "the essence of sovereignty" and they are uncommunicable and inseparable, for their division would make 'a kingdom divided in itself.' They are thoroughly indivisible and can by no 'grant' pass away without direct renouncing of the sovereign power. Thus Hobbes has definitely established the following propositions:

Characteristics of  
Hobbes' Sovereignty.

- (i) That sovereign power is essential in every state.
- (ii) That sovereign power is indivisible.
- (iii) That sovereign power is unlimited and illimitable.

This is because without a sovereign power there cannot be order and good government, which must always strike terror in the hearts of the people who should ever remain under awe and fear of the might of Leviathan. This power of the Leviathan is not only *not* to be shared by the people, it should not allow any association or corporations to arise within its dominion. The church should ever remain its servant, neither an equal partner nor a master. The sovereign power knows no limitations either from within or from without. It is absolute, omnipotent, omniscient, permanent, universal and inalienable. *A limited sovereignty is a contradiction in terms.*

After Hobbes the conception of sovereignty was reinterpreted according to the prevailing tendencies of the times till Bentham again

**Bentham.** took up his tradition and expounded it. Says he

"when a number of persons (whom we may style subjects) are supposed to be in the habit of paying obedience to a person, or an assemblage of persons, of a known and certain description (whom we may call governor or governors), such persons altogether (subjects and governors) are said to be in a state of political society."<sup>11</sup> Thus Bentham does not associate the legal superior with unlimited powers for he recognises that *in practice* there is always the possibility of people's resistance and there is also the possibility of its limitation by express convention as in federal governments. Nevertheless, law remains the command of the sovereign for the sovereign has within his sphere an indefinite field of the exercise of his authority. As Pollock puts it, 'for the purpose of scientific analysis the power of the sovereign must be treated as unlimited.'<sup>12</sup>

But it was in the hands of Austin that the legal view of sovereignty received its fullest exposition. Austin was a jurist and

**Austin.** therefore all moral or historical considerations could have no importance in his analysis and

exposition. 'If' says he 'a *determinate human superior, not in a habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society, and that society (including the superior) is a society political and independent.*' A brief analysis of this statement will make us clear the real significance of Austin's meaning.

(1) There is to be a *determinate human superior*. By this he means that abstract notions like the 'general will' or the 'laws of Nature' have no bearing on the conception of sovereignty. A sovereign must be *definite, visible* so that the people can recognise in him the supreme power of protection, that is, for purposes of law an un-

Analysis of Austin's  
Definition.

<sup>11</sup> History of the Science of Politics, by Sir Frederick Pollock. p. 103 (quoted).

<sup>12</sup> *Ibid.*, p. 104.

mistakable personality is necessary, not vague expressions like **General Will** or law of Nature. Further, this determinate superior must be *human*. By this he means that the sovereignty of God or gods has no significance in state business. It is concerned with man. Hence human laws and not divine laws are the proper subject of state activity.

(2) This human superior is *not* in a *habit* of obedience to a like human superior. By this Austin means that the sovereign power in a community must *not* be in a condition in which it has usually to abide by the decision or orders of any other power. Thus the Viceroy of India, though a determinate human superior in this land, is always in *habitual* obedience to the orders of another superior—the British Government, and as such is not a sovereign, and India itself, though a society political is not an independent political society.

(3) This human superior receives *habitual* obedience from the *bulk* of a given society. By this Austin means that besides the fact that the sovereign does not habitually obey another human superior, he should also receive a sort of permanent obedience from the majority of those over whom he rules. Thus the temporary acquisition of power by a man like Bacha Sakao does not make him a sovereign, not simply because he could not claim the allegiance of a majority of the Afghan people but because no where the Afghan people habitually obeyed him. The lapse of time has shown that the late king Nadir Shah had achieved the habitual obedience of a bulk of his Afghan subjects and his successor king Zahir Shah is now receiving it. Thus sovereignty involves not only the submission of the *many* but also its *permanence*.

This analysis of Austin's statement thus gives us, like that of Hobbes, the following characteristics of sovereignty:—

- (i) That a determinate sovereign power is  
Characteristics of  
Austin's Sovereignty.
 necessary in every state for without  
 it there would be no law.
- (ii) That sovereign power is unlimited and it can forbear no  
 checks on its actions. It is absolute and exclusive.
- (iii) That sovereign power is indivisible: none can be allowed

to share it as an equal partner. It is supreme and inalienable, permanent and all comprehensive, in one word, a unity.

But this Austinian view of sovereignty as applied to contemporary political institutions is practically no where true and is therefore more or less an abstraction. Before the Great War, however, it could be applied to

**Criticism:** one or two cases. As Bryce puts it, "he has given us a theory, which is so far from being that of the normal modern state, that it is applicable to only two kinds of states, those with an Omnipotent legislature, of which the United Kingdom and the late South African Republic are almost the only examples, and those with an omnipotent monarch, of which Russia and Montenegro are perhaps the only instances among civilized countries. In nearly all free countries, except the United Kingdom, legislatures are now restrained by Rigid Constitutions, so that there is no sovereign answering the Austinian definition. In all Muhammadan countries the monarch is legally as well as practically restrained by his inability to change the Sacred Law; so that, even in those countries where despotism seems at first sight enthroned, the definition will not work."<sup>12</sup>

Even his analysis of the English institutions from the point of view of his theory was defective, for according to him the sovereignty of England lay, not in the King-in-Parliament, but in the Crown and the House of Lords together with the British electorate, so that the House of Commons, which in fact is the most important factor, was relegated to oblivion.

Again, his theory completely fails in all federal governments. As applied to the United States of America we find that neither the President nor even the Congress nor both possess any supreme power in the sense of Austin. After a careful search we come to the conclusion that

1. His theory is not true to facts.  
2. His analysis of the English Constitution is wrong.  
3. His theory fails in Federal governments.

<sup>12</sup> Bryce: *Studies in History and Jurisprudence*, Vol. II, pp. 89-90. (The student may read with profit the detailed criticism). The rise of Dictators in our own times, however, seems to mark the swing of the pendulum for in them we can detect the *determinate human superior* of Austin.

the body which can change or amend the Constitution might be the sovereign, and for this the provision in the American Constitution runs as follows:

“The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes. as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.” We can thus definitely see that it is impossible to locate Austinian sovereignty in conditions so complex. As J. Browne puts it ‘the complications of procedure and the exacting requirements as to majorities have the practical result of almost ensuring its eternal slumber.’<sup>14</sup>

Finally, as Maine has shown, Austin’s definition of sovereignty does not suit the less developed states, for his definition of law as

the command of the sovereign is not true to facts. 4. It is not applicable to less developed states. Maine points out the case of Ranjit Singh as a ‘determinate superior’ in the Punjab, who was in no way above the customs prevailing in his territory. Law thus was not as much the command of the sovereign as it was the formulation of the social conscience to which even the sovereign was subject and which he dared not oppose or break. Thus the whole difficulty of Austin and the confusion wrought by his definition centres round the location of sovereignty for purposes of law and this would have been resolved had he divided the sovereign power into legal and political.

## 2. The Historical View of Sovereignty:

From the legal view of sovereignty we may now turn to the Historical view of sovereignty. The term ‘Historical’ here is an arbitrary one and Lord himself recognises this when he says ‘In

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<sup>14</sup> J. Browne: Austinian Theory of Law, p. 154.

default of a better name, I have called it the Historical view, for it represents a frame of mind most apt to be produced by reflection upon the historical adventures of the principal governments of western civilisation.<sup>15</sup> This view of sovereignty thus begins with what Ward has styled as 'the historical rise of responsible government' for it was in 1688 that the Glorious Revolution occurred in England and the Stuart despotism came to an end.

Hobbes, we have seen, had appeared as an apologist of the sovereignty of the monarch;<sup>1</sup> now Locke comes forward as an apologist of the Revolution—of the sovereignty of the nation and hence gives us a theory of the so-

**Locke.** called constitutional government. In this sense while Hobbes stood for an undivided sovereignty, Locke pressed for a divided sovereignty. In a characteristic passage in his *Two Treatises* Locke sums up his view of the sovereign power thus<sup>16</sup>:—

"Though in a constituted commonwealth . . . there can be but one supreme power, which is the legislative, to which all the rest are and must be subordinate, yet the legislative being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them . . . Thus the community perpetually retains a supreme power of saving themselves from the attempts and designs of anybody, even of their legislators, whenever they shall be so foolish or so wicked as to lay and carry on designs against the liberties and properties of the subject . . . (but) this power of the people can never take place till the government be dissolved . . . In all cases whilst the government subsists, the legislative is the supreme power. For what can give laws to another must needs be superior to him, and since the legislative is no otherwise legislative of the society but by the right it has to make laws for all the parts, and every member of the society prescribing rules to their actions, and giving power of execution where they are transgressed, the legislative must needs be the supreme, and all

<sup>15</sup> Lord: *Principles of Politics*, p. 93.

<sup>16</sup> Locke: *Treatises*, II, Ch. XIII, pp. 269-270 (G. Routledge, London).



other powers in any members or parts of the society derived from and subordinate to it.

“(And) ‘where the legislative is not always in being, and the executive is vested in a single person who has also a share in the legislative, there that single person, in a tolerable sense, may also be called supreme; not that he has in himself all the supreme power which is that of law making, but because he has in him the supreme execution from whom all inferior magistrates derive all their subordinate powers . . . though oaths of allegiance and fealty are taken to him, it is not to him as supreme legislator, but as supreme executor of the law . . . allegiance being nothing but an obedience according to law, which, when he violates, he has no right to obedience . . . and so is to be considered as the image, phantom or representative of the Commonwealth.”

In this passage we can easily see that Locke has mentioned three supreme powers (he does not use the term sovereignty). In the first place, he talks of the supreme power of the *people* which is the *ultimate source of all power* in any form of government for he explicitly tells us that the people exercise their power or are moved to action only when they find that the trust reposed by them in their representatives has been misused.

Secondly, he talks of the *supreme legislative power* under any form of government for the people have appointed its legislators with a definite trust of good laws and protection.

Thirdly, he speaks of the *supreme executive power* associated with the legislative power.

In all these, Locke is thus interpreting English conditions as they had come to be after the Glorious Revolution or the introduction of the so-called Responsible Government.

*English Conditions in 1688.* The people were the ultimate sovereign, the Parliament as the representative of the people, the legal sovereign and the King as associated with the Parliament, the Executive sovereign. In our modern terminology, Locke's analysis thus meant that:

- (i) The people were the political sovereign.
- (ii) The King-in-Parliament, the legal sovereign.

(iii) The king as a person, a nominal or titular<sup>17</sup> head of government.

In this way, Locke completely succeeds in giving a correct interpretation of the new situation created by the Revolution of 1688.<sup>18</sup>

After Locke, Montesquieu also presented a realistic analysis of the conception of sovereignty. We have seen how Locke had made

the Legislative body supreme in law and the people as the ultimate political sovereign.

Montesquieu does not take up the last element in his discussion. He centres his argument on the three branches of government—Legislative, Executive and Judiciary and comes to the conclusion that the real safety of the people lies not in making any of these organs supreme over others, but in striking a balance between their powers. This is known as the theory of checks and balances or that of the Separation of Powers. In an oft-quoted statement, he sets forth his view thus:<sup>19</sup>

"The idea that the king cannot even marry the woman he likes would not have merely shocked an Henry VIII, it would have stunned Hobbes beyond imagination. Hence the Instrument of Abdication which the ex-King Edward VIII signed on December 10, 1936—and which I reproduce below for the interest of the readers from 'The Leader' of December 12, 1936—is the most heinous crime that peoples and Parliaments can commit against a sovereign. But in Locke the Abdication will be welcomed just as the flight of James II was welcomed. If it was a Glorious Revolution because it was a bloodless revolution, the present event too is not less 'glorious,' for the English people without any approval or disturbance have silently tidied over the crisis, and the Constitutional King has been reminded that if he wants to stay, he must stay with all the limits and checks that have come to be associated with the English Constitutional Monarchy. Hence, like James II, Edward VIII has been exchanged for George VI and the position has been undoubtedly made clear for the future that even the king's marriage is a question of public concern, and that he is to remain in a very real sense as a completely nominal or titular head of government (having no great freedom even in his private life).

The following is the text of the 'Instrument of Abdication':

"I Edward VIII of Great Britain, Ireland and British Dominions beyond the Seas, King-Emperor of India, do hereby declare my irrevocable determination to renounce the Throne for myself and for my descendants and my desire that effect should be given to this Instrument of Abdication immediately. In token whereof I have hereunto set my hand this tenth day of December, 1936, in the presence of the witnesses whose signatures are subscribed. *Edward R. I.*—"

<sup>17</sup> Locke further develops in detail the power of the Legislative organ which I have not reproduced here for fear of lengthening this essay.

<sup>18</sup> Montesquieu: 'Spirit of Laws, Vol. I, pp. 162-63 (Bohn's Standard Library).

itself conferred the imperium."<sup>23</sup> Thus in Rome the ultimate sovereign were the people.

In the middle ages, the idea of the supreme power of the people again made its appearance in a religious garb. As against the absolute claims of the Pope for the headship of Christendom, men like Marsiglio of Padua and Ockam advanced the theory of the sovereignty of Believers. The General Council as representing the community of Christian Believers was to be the real sovereign, not the Pope.

With the advent of the modern era, the idea of the ultimate power of the people became very strong and began to be used against the national monarchs who claimed their power by divine right. Men like Milton and Mariana, Buchanan and Althusius—to name only a few amongst a host of writers called the Anti-Monarchists—all stood for the people as the ultimate source of all governments and made the kingly power dependent upon a contract with the people.

But all of them discussed *where* the sovereignty lay and never *what* it was.<sup>24</sup> The nature of the sovereign power was never discussed. As Merriam has beautifully put it, throughout the discussion, the doctrine of sovereignty made little advance, in respect of either its content or its bearing. "Popular sovereignty" was energetically and ably defended against that of the government, but just what this sovereignty was, or who 'the people' were, found no very satisfactory answer. If the supreme power belonged to the community, its nature was not a matter of primary importance. On the other hand, when the sovereignty was attributed to 'the people,' even though denominated the *regnum respublica, civitas*, body-politic, state, by this was understood not the ruler and the ruled, but the mass of the subjects, *excluding the Governor*. The sovereign people were not the whole state, including both subject and government, but the governed part of the state.<sup>25</sup>

<sup>23</sup> *Legacy of Rome*, p. 95.

<sup>24</sup> Merriam: *History of theory of sovereignty*, p. 18.

<sup>25</sup> *Ibid.*, pp. 20-21.

Thus there came to be an abiding antithesis between the people and the government, so much so, that even in Hobbes we find the same thing repeated. The sovereign was not a party to the contract, and it was the people who had formed the commonwealth. This antipathy and confusion between sovereign and subjects, government and people, state and government for the first time seems to be relieved in Locke till it completely disappears in Rousseau in whose contract, all 'those who are associated in it take collectively the name of *people*, and severally are called *citizens*, as sharing in the sovereign power, and *subjects*, as being under the laws of the state' and that act of association itself creates a moral and collective body, a real public person 'called by its members *State* when passive, *Sovereign* when active, and *Power* when compared with others like itself.'<sup>26</sup> In this way, for the first time in modern times, we find with Rousseau the first clear statement of the real meaning of the 'people' and 'the state' and such we regard him as the ~~father of~~ modern political philosophy. It is through him that the ideas of the sovereignty of the People, of General Will and of the state received their thorough exposition and later on became the basis of all future interpretation of the conception of sovereignty. It reached its climax when "the people," a nationality armed, a mythical 'person' supreme and irresponsible, under the title of the sovereign state occupied the centre of the political state at the end of the 19th century. A new Leviathan had been made.<sup>27</sup> 14

Thus the sovereign in Rousseau is the General Will. It alone can direct the state according to the object for which it was instituted, *i.e.*, the common good. It is therefore *inalienable*. The 'sovereignty' being nothing less than the exercise of the general will, can never be alienated and that the sovereign who is no less than a collective being cannot be represented except by himself: the power indeed may be transmitted, but not the will.<sup>28</sup>

**Rousseau's  
Sovereignty.**

1. It is inalienable.

<sup>26</sup> G. D. H. Cole: *Social Contract*, pp. 15-16.

<sup>27</sup> P. W. Ward: *Sovereignty*, p. 44.

<sup>28</sup> G. D. H. Cole: *Social Contract*, p. 22.

It is again for the same reasons *indivisible*, 'for will either is, or is not, general; it is the will either of the body of the people, or

2. It is *indivisible*. only of a part of it. In the first case, the will, when declared, is an act of sovereignty and constitutes law: in the second, it is merely a particular will, or act of magistracy . . . at the most a decree.<sup>29</sup> Here Rousseau definitely points out (probably he has Locke and Montesquieu in his mind) that some of the writers divide sovereignty into legislative and executive and 'turn the sovereign into a fantastic being composed of several connected pieces: it is as if they were making man of several bodies, one with eyes, one with arms, another with feet, and each with nothing besides.'<sup>30</sup> He calls this division as 'the conjuring tricks of our political theorists' and says that they take for parts of sovereignty what are only emanations from it.

3. It is *infallible*. Sovereignty, further, is *infallible*. The General will is always right and tends to the public advantage.

Sovereignty, finally, is absolute for the General will, exercises an absolute power over all the members and it is indestructible.

4. It is *absolute*. Sovereignty, thus, as expressed by the General will represents, as Lord has shown, unity, permanence, its being right and a self-conscious entity.<sup>31</sup> Rousseau has 'accomplished for the people what Hobbes had done for the ruler. The English writer's theory absorbed the entire personality of the state in the ruling body, the government, the bearer of the personality of all. Rousseau, by the same logic, absorbed the government in the people.'

This philosophical theory of sovereignty as expounded by Rousseau was taken up by the so-called Idealists and with them it

**The Idealists.** came to be known as the Absolutist theory of the state or the Metaphysical theory of sovereignty. In Germany, Hegel and in England, Bosanquet developed this theory to its highest climax. Prof. Hobhouse summarises the three propositions underlying the metaphysical theory thus:

<sup>29</sup> G. D. H. Cole: *Social Contract*, p. 23

<sup>30</sup> *Ibid.*, p. 24.

<sup>31</sup> Lord: *Principles of Politics*, pp. 139—42

(1) The individual attains his true self-  
The elements of metaphysical theory. and freedom in conformity to his  
 real will.

(2) This real will is the General will.

(3) The General will is the state.

The state, therefore, is a mythical person having a will of its own, as Ward puts it 'a metaphysically real person' was provided to sit upon the throne left vacant by the absolute monarch.<sup>32</sup> But in Hegel, this idea of the divi-

The state is a mythical person. nity of the nation must still be "incorporated in an actual individual, in the will of a decreeing individual, in monarchy." Still, the state was in itself 'a self-knowing and self-actualising individual,' and the state of war showed the Omnipotence of the state in its individuality. Similarly, to Bosanquet the state represented the working conception of life, the guardian of the whole moral world, not a factor in it, and therefore was not to be bound by the system of rights and duties which were compulsory on its members. In this way, the nation state of the 19th century came to be, as Cole has called it, 'a single unique entity existing alone in a circumambient void.'

But, in our own times, this theory has undergone a searching analysis and vigorous criticism. We may here note only that part

#### Criticism.

of our contemporary criticism which has annihilated the basic premises of this Idealist metaphysics. Hobhouse thus notes his viewpoint:<sup>31</sup>

First, he takes the 'real will' and the 'actual will.' The 'actual will' stands for what we will from moment to moment and the 'real will' for what we will at all other

1. The use of the word 'real' is objectionable.

times. Here Hobhouse first objects to the word 'real' itself, for every part of man is as real as anything else in him. The temporary in him is as real as the permanent in him and hence the distinction between actual and real

<sup>32</sup> P. W. Ward: *Sovereignty*, p. 59.

<sup>31</sup> Hobhouse: *The Metaphysical Theory of the State*.

is arbitrary. The 'actual' is as real, as 'real' is real. Secondly, the 'real will' as signifying the permanent underlying nature of man is not always predominant. Sometimes, the passions and appetites overpower him and they are as 'real' as any other thing in man. Thus the only meaning of the term 'real will' can be the 'ideal will' as wishing the good of all. *The metaphysical theory, therefore, confuses the ideal with the real, and makes the real, the ideal.*

(2) If the 'real will' is equal to the 'ideal will' is it the General will as creating one monistic entity? Here the metaphysical writers have assumed that the ideal will of each individual is not only alike in *quality*, but also in *quantity*, that is, they have confused the identity of existence with the identity of content. This means that they assume not only the fact that every one wishes the general good, but also that he wishes it in an equal degree with others. Moreover, besides this confusion, they have made the General will a continuous identity which it is not. For every individual is a centre of diverse emotions and feelings and is a unity. No such unity pervades the General will for distinct selves, though they may individually have a unity in their self, do not create a new 'unity' apart from them. Here the Idealists have confused 'thinking' with the 'object thought about.' Thinking is suffering- it is personal experience, unique and absolute to one who is doing it. 'A world of objects' may be common to the experience of many, but the process of 'suffering' and 'feeling' is personal. The selves are not one: they are many, distinct, and apart. Thus it comes to be that *if it is will, it is not general, and if it is general, it is not will.*

(3) If the 'General will' is not a 'will,' an entity by itself, how can it be a 'person'? The state therefore is no metaphysical entity: it is not a person. It may be the common outward experience of all individuals and in this sense a unity, but in no sense a mythical unity apart from individual experience.

In this way, modern criticisms have shattered the basic premises of Idealist metaphysics, and have completely dethroned the new Leviathan from its august position.

#### 4. The Pragmatic View of Sovereignty:

But up to this time we have only noted a philosophical criticism of a philosophical theory. It has also been assailed from the point of view of our daily experience. It has been

The Pluralistic and Federative writers. shown that the metaphysical and even the legal notion of absolute or monistic sovereignty is a pure abstraction and is thoroughly untrue to facts. This has given rise to the fourth school of sovereignty which I have called 'pragmatic' because it takes its ideas and forms its conclusions on the basis of things as they are presenting themselves to us in our experience. Two lines of criticism can be easily witnessed in this school. One is the so-called 'Pluralistic school' which completely does away with the majesty of the Leviathan and makes it an equal of other associations. The other is the 'Federative school' which keeps up the state as a co-ordinating agency only. Both of them however start with the rise to importance of 'groups' in our contemporary life and the part they are playing in our social and political existence.

For purposes of absolute sovereignty, Hobbes had already regarded associations within a state as 'worms' within a body . . .

**Groups and state:** "the great number of corporations, which are as  
**Hobbes and** it were many lesser commonwealths in the bowels  
**Rousseau.** of a greater, like worms in the entrails of a natural man."<sup>34</sup> Following him, Rousseau had also desired their suppression for the rise of large associations meant the having of a General will of their own. Said he, "But when factions arise and partial associations are formed at the expense of the great association, the will of each of these associations becomes general in relation to its members, while it remains particular in relation to the state: it may then be said that there are no longer as many votes as there are men but only as many as there are associations."<sup>35</sup> Further, he had observed in his Discourse on Political Economy:

"Every political society is composed of other smaller societies of different kinds, each of which has its interests and its rules of

<sup>34</sup> Hobbes: *Leviathan* (Routledge), Ch. XXIX, p. 152.

<sup>35</sup> G. D. H. Cole: *Social Contract*, p. 26.



conduct, but these societies which every body perceives, because they have an external and authorised form, are not the only ones that actually exist in the state: all individuals who are united by a common interest compose as many others, either transitory or permanent, whose influence is none the less real because it is less apparent, and the proper observation of whose various relations is the true knowledge of public morals and manners. The influence of all these tacit or formal associations causes, by the influence of their will, as many different modifications of the public will. The will of these particular societies has always two relations; for the members of the association, it is a general will; for the great society, it is a particular will; and it is often right with regard to the first object, and wrong as to the second. A man may be a devout priest, a brave soldier, or a zealous senator, and yet a bad citizen. A particular resolution may be advantageous to the smaller community, but pernicious to the greater. It is true that particular societies being always subordinate to the general society in preference to others, the duty of a citizen takes precedence of that of a senator and a man's duty of that of a citizen; but unhappily personal interest is always found in inverse ratio to duty, and increases in proportion as the association grows narrower, and the engagement less sacred; which irrefragably proves that the most general will is always the most just also, and that the voice of the people is in fact the Voice of God."

Following Rousseau, Green and Bosanquet also recognised the part associations play in our life, but both of them gave the supreme power to the state. Says Green, "The other forms of community which precede and are independent of the formation of the state, do not continue to exist outside it, nor yet are they superseded by it. They are carried on into it. They become its organic members, supporting its life and in turn maintained by it in a new harmony with each other" . . . and the state is "for its members the society of societies, the society in which all their claims upon each other are mutually adjusted." Similarly, Bosanquet regards the state a group of

"*Ibid.*, pp. 253-54.

"T. H. Green: *Lectures on the Principles of Political Obligation*, p. 146.

groups, a community of communities. It is, in his view, the working conception of life and is, therefore, the source and means of adjustment.<sup>38</sup> It is 'an operative criticism' of all institutions within it.

In our contemporary times,<sup>39\*</sup> following Gierke and Maitland, writers have come forward with the claim of 'real personality' of groups and on this basis have questioned the omnipotence of the state. In their view, the state should not be singled out as a universal association having a will of its own and a life of its own: it is either at par with other associations in a common equality or is simply an umpire, but in no sense a master. The former are Political Pluralists, the latter are Federal writers.

Among a host of federative writers may be mentioned Gierke, Maitland, Miss Follet, MacIver, Barker, and Figgis (the last having been inclined towards Pluralism). He stands for a free church in a free state' and this is the 'least' that he wants the state to recognise, and in so doing he admits that his treatment may evoke a criticism of being 'unduly conciliatory to the state.'<sup>40</sup> But it is not only for the rights of the Church that he is fighting, he stands for the rights of all associations, as he himself puts it, "the real problem is the relation of smaller communities to that '*communitas communitatum*' we call the state, and whether they have an existence of their own or are they mere creatures of the sovereign."<sup>41</sup>

To him 'the church is a living social union of men bound together by specific ties, recruited by definite means, and acting by virtue of an inherent spontaneity of life which is not imposed but original, which though it may be regulated by the civil authority is *not derived* therefrom';<sup>42</sup> it is not 'a mere aggregate, a fortuitous concourse of ecclesiastical atoms . . . with no real claim to a mind or will of her own, except so far

<sup>38</sup> E. Barker: *Political Thought in England. From Spencer to Today*, p. 71.

<sup>39\*</sup> For further discussion on this subject, please see the Appendix also in the end of the book.

<sup>39</sup> J. N. Figgis: *Churches in the Modern State*, p. 4.

<sup>40</sup> *Ibid.*, p. 8; (also pp. 40-41 for further reference).

<sup>41</sup> J. N. Figgis: *Churches in the Modern State*, p. 36.

as the civil power sees good to invest her for the nonce with a fiction of unity.' Not only that an Established church has no independent entity: even the so-called 'free churches' have no freedom from state interference. Hence mere disestablishment would not be sufficient for the claims of churches for an autonomous life: they demand a definite recognition of an inherent right of self development, as Figgis himself puts it, 'since, as a fact, religious bodies are only one class of a number of other societies, all laying claim to this inherent life. it is clear that the question concerns not merely ecclesiastical privilege, but the whole complex structure of civil society, and the nature of political union.'<sup>42</sup> "The state did not create the family nor did it create the churches: nor even in any real sense can it be said to have created the club or trades union, nor in the middle ages, the guild or the religious order, hardly even the universities or the colleges within the universities: they have all arisen out of the natural associative instincts of mankind, and should all be treated by the supreme authority as having a life *original and guaranteed*, to be *controlled and directed* like persons, but not regarded in their corporate capacity as mere names."<sup>43</sup> Thus Figgis, because he is claiming the 'least,' gives a superior right to the state over all other associations but this superior right is only of co-ordination and adjustment, for he definitely says that the state does not *create*: she *recognises* these associations. They are not 'founded and supported' by it but only 'controlled' by it "of course the state may and must require certain marks, such as proofs of registration, permanence, constitution, before it recognises the personality of societies," but 'to deny the real life is to be false to the facts of social existence.'

Among the Political Pluralists may be mentioned G.D.H. Cole, Duguit and Laski, the last having written profusely on the conception of sovereignty. In his 'Problem of sovereignty,' after stating the monistic conception of the state as a 'unity' and a 'whole,' he takes up the rights of other groups for, he says, 'for practical politics there

<sup>42</sup> *Ibid.*, p. 40

<sup>43</sup> *Ibid.*, p. 47

seems no moral rightness in such an attitude as this,<sup>44</sup> i.e., in emphasising only the state rights as real.

In the first place, he says 'we do not proceed from the state to the parts of the state on the ground that the state is more fundamen-

(1) The parts of the state are as real as the whole. tally unified than its parts, but we, on the contrary, admit that the parts are as real and as self-sufficient as the whole." A Trade Union deals with its members quite independently of the state or other associations. The state, therefore, is distributive, not collective.<sup>45</sup>

Secondly, 'our allegiance is not as a fact unified.' The state is but one among other groups. Our allegiance (2) Our allegiance is not unified: it is divided. to it may even conflict with our allegiance to other associations.<sup>46</sup>

Thirdly, the legal view of omnipotent sovereignty does not face facts. It cannot force a Roman Catholic to change his religion.

(3) Omnipotent sovereignty is not true to facts. Its law depends upon the consent of its constituent parts. The state can only carry through by good will. It is a will competing with other wills and surviving only by its ability to cope with its environment. It is a will-organisation. 'We have only to look at the realities of social existence to see quite clearly that the state does not enjoy any necessary pre-eminence for its demands.'<sup>47</sup>

Fourthly, nor is the purpose of the state larger than that of

4. The purpose of the state is not larger than other associations. any other conceivable group. In theory it may exist to secure the highest life for its members;<sup>48</sup> in fact, it maintains the good only of a section, not of the community as a whole.

Thus the monistic theory of the state, making it sovereign and therefore absolute runs counter to some of the deepest convictions

The monistic theory runs counter to our convictions. we possess. The Pluralistic theory is 'consistently experimentalist' in form and content. 'It denies the rightness of force. It dissolves . . . the inherent claim of the state to obedience. It insists that the state,

<sup>44</sup> H. J. Laski: *The Problem of Sovereignty*, p. 9.

<sup>45</sup> *Ibid.*, pp. 9-10.

<sup>46</sup> *Ibid.*, p. 11.

<sup>47</sup> H. J. Laski: *The Problem of Sovereignty*, p. 15.

like every other association, shall prove itself by what it achieves. It sets group competing group in a ceaseless striving of progressive expansion. What it is and what it becomes, it then is and becomes by virtue only of its moral programme."<sup>48</sup> This division of power would certainly horrify Hobbes, "that prince of monistic thinkers." But the fact remains that 'it is from the selection of varieties, not from the preservation of uniformities, that progress is born. We do not want to make our state a cattle yard in which only the shepherd shall know one beast from another'<sup>49</sup>

## CHAPTER XI

### THE CONCEPTION OF LAW

#### (a) The Various Schools and Meaning of Law:

"Law and Liberty," says Ramsay Muir, "are the bones and blood of western civilisation,"<sup>1</sup> and it is their conflict that marks the characteristic feature of European History. It is the strife after liberty that keeps law alive and progressive: it is the restraint of law that prevents the eager claim for liberty from ending in chaos. **L a w      a n d      L i b e r t y .** ~~The two are interdependent. The one supplements the other.~~ It was the absence of liberty in the East that made eastern governments irresponsible despotisms and their law a means of tyranny. In fact, there ought to be no antithesis between law and liberty for a progressive law is the very condition of liberty and law means a system of regulations which ought to be obeyed by the community, not because it is a divine command or the will of an irresponsible master, but because the community feels that it would be to its advantage to do so. Unquestioned submission is not obedience: it is slavery. It is the spirit of criticism which is liberty that forces law to keep pace with the times.\* Law ought not to be static as liberty ought not to be its sleeping partner. It should be dynamic and flexible in character as liberty ought to be a living spirit, eternally vigilant, and a constant guide.

From the very beginnings of political speculation, the conception of law has been associated with the conception of the state and as such the philosophy of law has always been related to Political Philosophy. In an earlier chapter we had occasion to see how Jurisprudence was connected with Political science and how it was a branch of that science. There we were speaking of Jurisprudence in a restricted sense. It was the so-called Analytical Jurisprudence that we had in view. But Jurisprudence in its widest application

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<sup>1</sup> Ramsay Muir: Nationalism and Internationalism, Section I.

has always been coterminous with Legal Philosophy. And Legal Philosophy is very much more than Analytical Jurisprudence which is but a part of it. Jurisprudence in this restricted sense deals with formulated law. Legal Philosophy is a critical study of formulated law. Jurisprudence determines what is lawful: Legal Philosophy considers the problem of the nature of law. Jurisprudence considers the structure and function of law. Legal Philosophy traces the underlying principles and causes of law. Jurisprudence centres itself on the content of law. Legal Philosophy takes into consideration the spirit of law.<sup>2</sup>

In short, as Krause has said, legal philosophy is the science of law and state in pure reason. or as Lasson puts it, it is the doctrine of the realisation of the idea of the good in

The task of Legal Philosophy human will: and therefore it is a vision of Ethics,

it touches economics and it deals with the province of the state.<sup>3</sup> It is the systematic study of the origin, content and import of the conception of law in connection with the considerations of the principles of government. nay, as Pound puts it, it has ever taken a leading role in all study of human institutions, and this can be easily seen from the fivefold task which, as MacDonell says,<sup>4</sup> legal philosophy must always attempt. In the first place, it must trace the origin of law to its sources in human nature. In the second, it must connect law with the society and circumstances of the times in which it originates or exists. Thirdly, it must analyse the ultimate elements of law such as it should show if force is an essential element. Fourthly, it must state the laws of its growth: and, finally, it must discriminate between Ethics and Law.

In this sense, the philosophy of law has always been unquestionably mixed up with political philosophy as the latter has also been intertwined with the philosophy of law; and as political philosophy has always been conditioned by the time, place or conditions of political

Legal Philosophy  
and Political Philosophy.

<sup>2</sup> Berolzheimer: *The World's Legal Philosophies*, pp. 1—3. (In this connection, see also Lord: *Principles of Politics*, pp 183-184)

<sup>3</sup> *Ibid.*, p. XXIX (Quoted in the Introduction by Mac Donnell).

<sup>4</sup> *Ibid.*, p. XXXI, Mac Donell's Introduction.

phenomena in the same sense legal philosophy has been determined by the prevailing circumstances.

**The schools of Law:** Thus there have been four schools regarding the origin and nature of Law.<sup>5</sup>

In the first place, as Bryce tells us,<sup>6</sup> there is the school which has always found the origin of law in compulsion or fear. The Sophists in Greece were the first to regard justice

**1. The Analytical School.** as the interest of the strong and as such the laws of the state were based on the peculiar interests of the governing class, and the many had no choice but to obey them because of compulsion. Laws in this sense were nothing but commands of political superiors to political inferiors. This view of law was taken up and developed in modern times by Bodin, Hobbes, Bentham and Austin and came to be known as the Analytical School of Jurisprudence.

In the second place, there is the school which has found the origin of law in Agreement or Reason. The Greeks regarded law as a common spiritual substance of the com-

**2. The Philosophical school.** munity, the result of common agreement. Even Socrates (in Crito) is said to have refused to break the laws simply because he had made a covenant with them to obey them. In modern times, Rousseau made use of this view and defined law as an act of the General Will, the resolution of the whole people. Similarly, in Kant the law is an expression of the legislative will of the individual. But side by side with this view of law as embodying 'reason' there developed from the very beginning a tendency to look upon Nature, in some sense, the source of reason. Thus the Greeks opposed the conventional by the natural. The state and laws were to them right by convention, and not by nature. The Romans similarly began to call enacted law, 'lex,' and law by nature, 'ius.' This tradition of regarding laws of Nature as embodiments of reason continued throughout the middle ages, and was made use of in modern times till the fall of the contract theory

<sup>5</sup> These four schools are Schools of Legal Philosophy or Jurisprudence in the widest sense.

<sup>6</sup> Bryce: *Studies in History and Jurisprudence*, p. 1.



led to its abandonment. Nevertheless, the idea of regarding the laws of Nature as an embodiment of highest moral principles has led to the examination and justification of laws on the basis of their ethical validity. This is the Philosophical school of Jurisprudence.

In the third place, there is the Historical school which does not regard law as the command of the sovereign, but one which has grown in the course of ages. They trace the origin of law in the customs, traditions, and habits and manners of the people. Savigny was the chief exponent of this school, and Sir Henry Maine its great luminary.

Finally, in our own times, a new school is making its appearance which may be called the Pragmatic school of Jurisprudence.

It bases laws on the satisfaction of our social wants and regards them as expressions of our social solidarity. Duguit is the great representative of this view.

With these four schools of law we may also consider the purposes which laws have always served, and these have been admirably summed up by Pound<sup>1</sup> under four heads:

In the first place, laws have been made to keep the peace in a given society and 'peace' has always meant the maintenance of status quo. This was true of Greece where the chief function of law was to maintain the balance in the social constitution in so far as every individual had an appointed function to perform. This was also true of Rome and similarly of the Middle Ages.

**The ends of Law:**

1. For status quo.
  2. For equality of opportunity.
- begins with the 16th century. The Ancient and Medieval conceptions of law were based on natural inequalities of individuals, that is, their natural capacities; the 16th century conception came to be based on equality

<sup>1</sup> R. Pound: Introduction of the Philosophy of Law, pp. 72—89. The student may with profit consult and digest the details from the text of the writer.

meaning a like freedom of will and the like power of conscious employment of one's faculties inherent in all men. It went therefore against traditional restrictions.

Thirdly, in the 19th century, this conception of law as the maintainer of natural equality easily passed into the maintainer of

3. For personality. natural rights, that is, it was no longer directed against any traditional restrictions on the personality of the individual: it asserted that personality itself as its basis. It took its stand on the free moral worth of the individual, who should assert himself to his maximum with due regard to the good of the community.

Lastly, in our own days, the end of law has come to centre round individual wants, rather than individual

4. For satisfaction of wants. wills or personalities. We are emphasising the maximum satisfaction of our wants and not the maximum self-assertion.

Having seen the schools of legal philosophy and the ends which law has served, we may now examine the term

**The twelve meanings of Law.** 'law' itself: Again, Pound has noted twelve different senses in which the term has been used:<sup>8</sup> viz.:—

(1) Laws are divinely ordained rules for human action. This was true of Mosaic law . . . the Ten Commandments, and is still true of the Muslim law.

(2) Laws represent a tradition of the old customs which have proved acceptable to the gods and hence point the way in which men may walk with safety. This was true of Egyptian law as well as of the Greeks.

(3) Laws are the recorded wisdom of the wisemen of old who had learned the safe course or the divinely approved course for human conduct. This was true of Ancient India and, in fact, is more or less universally true of the patriarchal stage of civilization wherever it existed.

(4) Laws represent a philosophically discovered system of principles which express the nature of things, to which, therefore,

<sup>8</sup> R. Pound: *An Introduction to the Philosophy of Law*, pp. 60—67.

man ought to conform his conduct. This was the basis of the law made by the Jurisconsults of Rome.

(5) Laws are a body of ascertainties and declarations of an eternal and immutable moral code. Such were the so called Laws of Nature.

(6) Laws are a body of agreements of men in politically organised society as to their relations with each other. This was particularly true of Greece as we have already seen.

(7) Laws are a reflection of the Divine Reason governing the universe . . . a reflection of that part which determines the 'ought' addressed by that reason to human beings as moral entities, in distinction from the 'must' which it addresses to the rest of the creation. This was the view of St. Thomas Aquinas in the Middle Ages.

(8) Laws are the commands of the sovereign authority in a politically organised society as to how men should conduct themselves therein, resting ultimately on whatever basis was held to be behind the authority of that sovereign. This was true of Greece and of Rome and is still true of our modern Analytical Jurisprudence.

(9) Laws are a system of precepts discovered by human experience whereby the individual human will may realise the most complete freedom possible consistently with the like freedom of will of others. This forms the basis of the Historical school of law.

(10) Laws are a system of principles, discovered philosophically and developed in detail by juristic writing and judicial discussion, whereby the external life of man is measured by reason, or in another phrase, whereby the will of the individual in action is harmonised with those of his fellow men. This was the chief contribution of Bentham and this has been the basis of many a case law since the 19th century.

(11) Laws are a body of rules imposed on men in society by the dominant class for the time being in furtherance of its own interests. This view has been chiefly held by those who have studied law and society from the economic point of view. The economic interpretation of history has made the state a class state, and its law, class law.

(12) Laws are the dictates of economics or social laws with respect to the conduct of men in society, discovered by observation, expressed in precepts, worked out through human experience of what would work and what not in the administration of justice. This view comes in vogue with the specialised study of the social sciences specially Sociology since the end of the 19th century or the beginning of the 20th century.

But though these are the twelve senses in which the term 'law' has been used, they do not go beyond the orbit of

The twelve senses of Law are covered by the four schools. The four schools we have already enumerated. The twelve meanings can be easily covered by the four schools thus:

(1) The Analytical school which regards law as a command or based on compulsion will include all laws whether they are the commands of a human superior or of God. for even the commands of God will be actually enforced in this world by human superiors, variously called as Prophets, gods or incarnations.

(2) The Philosophical school will embrace all laws which are either the results of agreement, of philosophical discussion, or the products of reason as envisaged by the term Laws of Nature or Laws of Reason.

(3) The Historical school will cover all laws which are an embodiment of the customs and traditions of the peoples, which are a record of the wisdom of ancestors and which are a code of human experience as exhibited during a course of ages.

(4) Finally, the Pragmatic school will envisage all laws which meet social needs, harmonize social wants and meet the new necessities of life.

But even this school-wise arrangement of law and its twelve meanings do not give us a clear understanding of the real meaning of 'law.' We will, therefore, start with the term

The term 'law' is still not clear. 'Law' as it has been understood and expounded by the Analytical school and then, by way of

criticism and discussion, we will try to reach a fairly accurate definition of Law.

Austin, the greatest exponent of this school defines law as 'the command of the sovereign.' He therefore does not take account of laws of God or of Laws of Nature which to him are not 'positive laws.' Jethro Brown notes<sup>1</sup> following characteristics of Austin's definition.<sup>2</sup>

**Austin's definition of Law.**

(1) It is a command, and a command means *a wish* that those to whom it is addressed *shall do or forbear* from some act and in case it is not complied with an evil will visit the transgressor.

**Its characteristics.**

(2) Liability to evil means that they are bound or obliged by the command, *i.e.*, they are under a *duty* to obey it.

(3) And the evil itself means the *sanction* for the enforcement of obedience.

Thus in this definition command, duty and sanction are inseparably connected and a law may be said to be a command which obliges a person to obey for fear of punishment. But this view of law has been badly criticized:

**Criticism.**

(1) It ignores the so-called *permissive* laws which are not commands and in Austin's sense, only *Criminal laws* seem to be laws proper.

(2) It ignores customs which are as powerful as the laws made by the sovereign, nay, even the sovereign has to obey them and dare not violate them. It, therefore, does not apply to semi-religious societies.

(3) The Judge-made law also directly does not come under his definition, though it comes under his statement: 'what the sovereign permits, he commands.'

(4) It ignores the so-called conventions of the constitution and International law and relegates them to the position of national customs and international morality.

(5) It ignores the ethical element in obedience. It simply emphasises force as the cause of obedience.

Thus the central idea in Austin's view of law is that of command or compulsion. Our critics, however, seem to be inclined to

<sup>1</sup> J. Brown: The Austinian Theory of Law, pp. 4—10.

emphasise its *enforcement*, e.g., Law is that which is *not necessarily commanded*, but which is *enforced*.<sup>10</sup> This will

**The real meaning of Law.** apply to all kinds of law . . . permissive, constitutional or International. Law in this sense is more than command. It is an expression of *communal will*, an epitome of social solidarity and a manifestation of the moral idea of right.

### (b) The Theory of Punishment.

Having seen what Law is we may now consider the principles which underlie 'punishment.' In this connection, we will consider some of the representative writers who have written on its nature, scope and purposes.

The first great writer who has written on the nature of punishment is Locke.<sup>11</sup> In the state of Nature according to him every man had two powers:

(1) 'to do whatsoever he thinks fit for the preservation of himself and others within the permission of the Law of Nature.'

(2) 'to punish the crimes committed against that law' and this punishment was to go 'to such a *degree* as may hinder its violation,' for it was in no sense an 'absolute or arbitrary power to use a criminal when he has got him in his hands according to the passionate heats, or boundless extravagancy of his own will, but only to retribute to him so far as calm reason and conscience dictate, what is pro-

<sup>10</sup> Holland defines Law as "a general rule of external human action enforced by a sovereign political authority." This definition is a great improvement upon that of Austin's, for:

- (i) Law is a rule of *human action* which means that the order or uniformities of the physical world as distinguished from the world of man do not come under its scope.
- (ii) This rule must be *general*. That is, a particular order to an individual is not law.
- (iii) It must relate to external action. Thoughts of men, their motives and intentions cannot be controlled.
- (iv) It must be enforced by a determinate authority and this authority must be sovereign. Thus the sovereignty of God who is also determinate does not come in for the sovereign must be a political sovereign, e.g., a human being.

<sup>11</sup> Locke: On Civil Government—, II Treatise, Ch. II.

portionate to his transgression, which is so much as may serve for reparation and restraint. For these two are the only reasons why one man may lawfully do harm to another, which is that we call punishment. Further, Locke observes that the individual may bring such evil on anyone 'who hath transgressed that law, as may make him repent the doing of it, and thereby deter him and, by his example, others from doing the like mischief.' What Locke has here stated for the individual, he also allows to the magistrate after the institution of the commonwealth. Thus his theory of punishment comes to be:

- (i) That punishment should not be excessive. *e.g.*, it must be *proportionate* to the crime. No personal element should enter in its decision: its aim must be the public good.
- (ii) It should be retributive, not vindictive. The injured party must feel after punishment that its loss has been made up.
- (iii) It should be deterrent so that the individual may repent upon his doings and may not have the courage to do it again.
- (iv) It should be exemplary in so far as others may see that if they did the like mischief they would be similarly treated.

After Locke, Rousseau has only touched upon the idea of punishment. In him, the General Will is always right and self-conscious.

**Rousseau.** If therefore the criminal is punished, he is being punished by his own real will and is therefore being 'forced to be free.'

After Rousseau, Bentham is another great writer who has set forth the theory of punishment as an essential part of his whole system. The Legislator, because he had to

**Bentham.** 'maximise' happiness, had to modify conduct by the annexation of pleasures and pain and this was sanction. Thus though sanctions are physical, political, moral and religious,<sup>12</sup> the

<sup>12</sup> Leslie Stephen: *The English Utilitarians*, pp. 244-45.

legislator had only to take care of political sanctions. Bentham enumerates eleven properties<sup>18</sup> which fit a punishment with due regard to happiness. Thus punishment must be:

(1) Variable, that is, capable of adjustment to particular cases, *e.g.*, in the case of a boy, a youngman, woman, and an old fellow it would not be the same: it would vary.

(2) It must be equable, that is: it must be proportionate to the crime.

(3) To be 'proportionate' the punishment should be commensurable to different classes of crime.

(4) It should be characteristic as impressing upon the imagination of the criminal.

(5) And though it should *not be excessive*, it should be exemplary as likely to impress others.

(6) It must further be frugal, that is, care should be taken of the fact that the least action on the part of the legislator may bring about the desired result.

(7) It should be reformatory.

(8) It should be disabling in the sense that the criminal may not dare committing the same crime again.

(9) It should be compensatory to the sufferer.

(10) Further, it should be popular, that is, no outworn or obnoxious methods be recommended. Only those may be used which are not in disfavour of the people in general.

(11) It should not be absolute in the sense that if once passed it should be carried out in every case. It should be *remittable* with due reference to circumstances.

(12) Lastly, a twelfth property was later on added as *simpli-city*. Certainly punishment ought not to be of a complicated character: it should be of easy and useful application.

Bentham had stated his theory in detail in the true spirit of a lawyer and for the guidance of a lawyer and a legislator. After him, Mill also considers the criteria of justice in his **Mill and Bosanquet.** Utilitarianism, but it is in T. H. Green that we find next the theory of punishment discussed from

<sup>18</sup> *Ibid.*, p. 267.



a philosophical standpoint. In Bosanquet punishment is only a 'shock' which brings back the individual to his senses like 'the forcing free' of Rousseau, but Green discusses it in a profounder way.

The great purpose of the state according to all Idealists is the hindering of hindrances, that is, the removal of obstacles for a free

moral life and, therefore, with Green also, the function of the state remains the maintenance of all those conditions which are necessary for a free moral development of the individual as well as of the community. Thus 'punishment' is meant to bring about those favourable conditions in which morality is possible, that is, it turns upon *external conditions* in which the will issues in action, not upon its inner nature.

Thus the first condition of punishment in Green is that it should be *proportionate* to the crime. In other words, it should repel obstacles in a way that the act of repelling may not in any way exceed the nature and extent of crime.

Secondly, it should so remove the obstacles that the criminal should feel that it is his duty to become a good citizen, that is, punishment should be *reformatory*.

But in our own times the nature of punishment has undergone considerable change and modification. For example, the contemporary civilized world does not favour capital

**Oppenheimer.** punishment. It is against even 'solitary confinement' or 'transportation for life.' With this end in view we may look into the different schools of 'punishment' as they have been summarised by Oppenheimer. He considers the theory of punishment under three heads: (1) the Transcendental theories; (2) the Political theories; and (3) theories of modern Criminology.

To the 'Transcendental' school, punishment is the necessary consequence of the crime, but it is an end in itself. The state owes this duty simply because of its obligation to some

**1. The Transcendental view.** metaphysical principle . . . it may be God, a moral law, or our sense of harmony. Thus in de

Maistre punishment is a religious duty, in Kant a moral necessity, in Herbert an urgent want arising within our æsthetic consciousness. We might usefully recall the arguments of Socrates in Crito

that the punishment was involved within the contract he had made with the laws. Similarly, to Grotius, punishment is but an 'article' of the contract and it is inflicted upon the criminal because he owes it.

The 'Political school' tries to discover the 'rationale' of punishment and therefore comes to hold that crime is the necessary condition of, but not the reason for punishment.

**2. The Political view.** Punishment thus is not an end in itself, rather it is a means to the good of the society as organised within the state. 'How this object is to be achieved' is the point where opinions vary in this school. There are those who believe that punishment ought to be *deterrent*, there are others who believe that it ought to be *disabling*, there are still others who say that it ought to be *preventive*, and finally there are those who think that it ought to be *reformatory*, but we should also not forget the fact that there are also those who think that these conditions should collectively form the necessary ingredients of punishment, according to the nature of the crime and its consequences.

The deterrent punishment is given with several ends in view. Firstly, its purpose is to strike terror into the heart of the criminal, and secondly, its effect on others who may be

The deterrent punishment. terrified so that the 'health' of the society is saved from being impaired. for in the first case, the criminal is led to 'reform' himself and in the second case, the people take an 'object lesson' from his example. In olden times, in India, we hear that the criminals were used to be tied to the trunk of a tree with a rope, their faces blackened, so that the passers-by might take example from them, or that they were hanged on some high branch of a tree with head downwards so that all those who witnessed them might be terrified. Whatever be the truth in these illustrations, the purpose in view was the good of the society. This is why public executions used to be carried out in nearly all countries. But in our own days, such methods have been done away with and even public executions have fallen in disfavour.

As regards the *disabling* punishment, we are sure that older societies cut off hands or feet of the criminal so that he might not

be able to repeat the crime again, and that in the case of others his example may prove *preventive*. But this method of punishment too has become obsolete in the civilized world for it regarded man as a mere chattel. We believe that human personality has a worth and a criminal too has rights, and that he should be given chances of improvement. In our own days, transportation and imprisonment for life are no doubt resorted to as *disabling* punishments, but they too have fallen into disfavour.

Thus the modern schools of criminology do not very much believe in deterrent or disabling punishments. They view punishment as *preventive and reformative*. They take

**3. The modern  
or Psychological  
view.**

due consideration of the opinions, sentiments and the prejudices of the times and base their view of punishment on psychological facts. To us therefore the function of punishment does not end with "muzzling wild beast," but that it should have its moralizing effect both on the criminal and the society at large.

(c) Law and Morality.

After discussing Law and Punishment, we may now trace the relation of Law and Morality.<sup>14</sup>

It is not only we, in contemporary times, that try to base law and punishment on morality. The relation of law and morals has its own history and Berolzheimer has marked out three stages in their relation:<sup>15</sup>

- (i) There is a confusion between religion, law and morality in all early civilizations.
- (ii) Law breaks away entirely from Ethics. The classic example is the ancient Roman 'Jus Civile.'
- (iii) There is a synthesis of law and morals. Law is softened and refined by the ethical notion which is nothing but the humanitarian idea.

<sup>14</sup> The student may read Roscoe Pound's 'Law and Morals' as one of the good books on the subject.

<sup>15</sup> Berolzheimer: The World's Legal Philosophies, Introduction, pp. xxiv-xxv.

In all primitive societies and early civilizations, religion, law and morality could not be differentiated. In Egyptian morals.

In early civilisation: 'truth' was the fundamental element and truth and charity were also the cardinal principles of

1. Egypt. its law. "Truth was the law according to which verdicts were pronounced in the divine court of the dead and approximately in human courts. For this reason, the presiding officer of the highest Egyptian tribunal were suspended from his neck the badge of office called Truth."<sup>16</sup>

Similarly, law and morals cannot be separated in the Vedic-Aryan civilisation. The word 'Dharma' peculiarly includes both

2. India. law and morals. Service and sacrifice to gods, obedience to state, love of family and the purity of social life could only be explained through Dharma. In this way, as Berolzheimer has summarised,<sup>17</sup> it becomes the sum total of pious duties. The four commandments, together with five injunctions form the core of Aryan ethics. The four commandments read:

Thou shalt honour the gods: thou shalt honour thy parents: thou shalt honour thy country: thou shalt honour the guest specially when he stands in need of protection. To these are added the five injunctions: Thou shalt keep thyself clean, thou shalt hold thy senses in check, in particular not violate, thou shalt not kill, thou shalt not steal; thou shalt not lie.

Besides these two earliest civilizations, the Greeks also did not differentiate between law and morals. Life in the polis was a life of virtue and the great purpose of the polis itself was a moral life, a good life. In Plato, the state is a moral being and every individual has to look after social morality. The laws are an expression of disinterested reason so that justice in the community may be assured. Similarly, in Aristotle, the great function of the state and its laws remains the attainment of a life of virtue.

<sup>16</sup> Berolzheimer: *The World's Legal Philosophies*, p. 31 (Footnote 2).

<sup>17</sup> *Ibid.*, pp. 38-39.

It is only in the city of Rome that we find a complete separation of law and morals. The reason was that Rome was an agricul-

tural country and its laws were made to suit the

In Rome.

daily wants of its citizens so that there was no necessity of seeking an ethical basis for law; but when the city state began to grow and other peoples came under its sway, the Greek ideas of natural law with its corollaries of good conscience and equity made their appearance and the Jus Gentium came into being. Roman law came to be based on ethical foundations and since then the partnership of law and morals has seldom been abandoned.

But this does not mean that the tradition of Jus Civile of early Rome was never taken up again. The Analytical School of Jurisprudence has always regarded law as the command of the sovereign and as such has never taken consideration of the ethical element in law.

Austin's view and its criticism.

but such an attitude, as we have already seen, is wrong. Ramsay Muir has well set forth his arguments against such a conception.<sup>18</sup> Firstly, law is not merely the will of the stronger: *it is a rule of abstract justice or right reason*. It is not a fixed thing but one that is always growing and changing, thus attaining a perfect harmony with the highest moral inspiration of men . . . not sacred and unchangeable and therefore static, but *dynamic* always meeting the demands of the situation.

Secondly, *it is the child of morality*, not morality the offspring of law. The theocratic states have always maintained the latter view and therefore their law has always remained unprogressive. In modern society, law tries to adapt itself to the varying and growing demands of public morality.

Thirdly, law is not a mere command from one side: it is *for the common advantage*. Hence it is not mere force or fear of punishment that obliges us to obey it: it is every day becoming the clear duty of every man to co-operate in its enforcement, as it is meant for the common good. It is in no sense to be evaded, but one protected, maintained and respected because *it is a moral obligation*.

<sup>18</sup> Ramsay Muir: Nationalism and Internationalism, Sec. I (The Main Principles of Western Civilisation, Law and Liberty).

Lastly, because of its being a thing of common concern, we no longer emphasise the sovereignty as such from which it issues but the fact that *the wisest members among us ought to have a hand in its making and enacting.*

## CHAPTER XII

### CHURCH AND STATE

In our own days, we daily hear the slogan, both in private and from public platform, that religion has nothing to do with politics.

**Religion to-day:** that it has no business with state and law. While this may be true in our present conditions or may be useful in the development of nationalism

which, as we have already seen, has come to be but another religion, it is not true of all times, especially so, of the early societies. To-day, it seems, religion and law stand in a sort of antithesis to one another, the one being a private affair of the individual and therefore voluntary, the other being the positive command of the state, and therefore compulsory. Says Bryce, "To the modern European world, religion and law seem rather opposed than akin, the points of contrasts more numerous and significant than the points of resemblance. They are deemed to be opposed as that which is free and spontaneous is opposed to that which is rigid and compulsive, as that which belongs to the inner world of personal conscience and feeling is opposed to that which belongs to the outer world of social organisation and binding rights. The one springs from and leads to God, Who is the beginning and the end of all religious life; the other is enforced by and itself builds up and knits together the state."<sup>1</sup>

But in early society, religion or religious uniformity was as compulsory as we find the law of the state to-day. In fact, religion and law could not be distinguished. Thus the world of primitive man was full of spirits and he worshipped them because of fear for he regarded them as malevolent powers. Even the name of his totem had some religious emotion behind it, and the object after which the 'totem' was named could not be injured or destroyed. Sometimes a guardian spirit

**Religion in early societies:** was sought for, sometimes magical ceremonies were necessary and

**1. The Primitive society.**

<sup>1</sup> Bryce: *Studies in History and Jurisprudence*, Vol. II, p. 209.

soothsayers explained them while at others the tatooing of body was resorted to to drive away the spirits as they were the cause of disease, death or other evils. Even the mysterious child-birth or conception was assigned to some spirit so that the primitive religion was a network of mere superstitions. As Bryce puts it, 'in the lowest forms of organised society the first kind of profession that appears is usually that of the wizard or practitioner of magic and the rudiments of a priest are developed out of the medicine man who represents the most rudimentary form of the physician. But in this stage of progress there is no religion properly so called, and the usages that prevail and which are the material out of which law will grow, are too few, too rude . . . to form a system of settled and harmonious rules'<sup>2</sup> For their notion of law was a set of prohibited things or 'taboos' which none in the totemic society could dare violate and which was also based on fear of the anger of spirits. In this way, there came to be no difference between religion and law, custom and morality and all these were enforced by the force of the community as a whole. Thus though there existed religion and law, there were no church and state as we understand them. The two could not be separated: they were too intermingled. Law was as much the part of religion as religion was that of law.

In the Patriarchal society, though there has come to be a difference in the conception of religion itself, there is yet none between religion and law. It is not any and everything that can become the object of worship of the whole tribe as it was in the case of the whole of the primitive horde, it is only their common ancestor who is worshipped, and sacrifices and offerings are made to him or to his spirit. The house-father is the high priest and the family hearth the sacred ground. The main idea of law is adherence to ancestral custom which is sacred and inviolable. Every new invention is perfect heresy to the social conscience so that both religion and law are interrelated, though there are again no church and state as we understand them. Bryce again well summarises this aspect of patriarchal life. Says he, "Many of the customs which form law are

<sup>2</sup> Bryce: *Studies in History and Jurisprudence*, Vol. II, p. 211.



concerned with worship, because the relations they regulate are relations depending upon religion. The family is a religious as well as a natural organism, for it is often sacred, and in many peoples, is held together by the common worship which its members owe to the spirit of their ancestors. Hence the maxims that regulate marriage, and the relations of parents to children, and the devolution of property, have a religious basis and are precepts of religion no less than rules of law.”<sup>3</sup>

Besides these early societies, in ancient empires also religion and law were undifferentiated. In the Egyptian law, the religious

**3. In Egypt, Japan, China and India.** conception and the written regulations were inseparable and it absorbed its attitudes through a “religious meadium.” The state was there demand-

ing *unity of belief* from its subjects, but there was *no church*. In Japan, Mikado-worship had been prevalent from times immemorial and the emperor was regarded as the son of the Sun (Nippon). In China, the Emperor was called the son of Heaven while in India Rama was worshipped as god or an incarnation of God so that everywhere we find law inseparably connected with religion and the state having strong religious foundations.

In Greek states, we find both superstitions, ancestor worship and gods as elements of religion and yet we cannot mark it out from law, custom and morality. Adherence to estab-

**4. In Greece.** lished practices was incumbent and any departure from them was crime, blasphemy and heresy at once. Socrates was sacrificed simply because he departed from the ways of the ancestors. “The chief feature of this religion,” says Delisle Burns, “was its social character. It was not dogmatic: and no creed was preached or even clearly held. For religion meant action of a certain kind, including the lowest form of magic and the highest symbolism . . . Religion never implied ecclesiasticism . . . the ‘polis’ was not what we call the state: the word meant society in general, organised indeed but organised rather religiously than, in our sense of the word, politically . . . The grievance against Socrates was not political, and yet it was not theological . . . It is quite impossible

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<sup>3</sup> Bryce: *Studies in History and Jurisprudence*, Vol. II, p. 211.

to separate religious feeling from any part of the life of the polis . . . Religious activity was shared by all. There was no segregated caste of priests and every member of the society had some function to perform."<sup>4</sup> Thus there was no clergy and no congregation and their religion was a popular religion. The Greeks were proud of the fact that most of their time was spent in the service of their gods. They did not distinguish between the institutions of law and government, and of worship, festivals and sacrifices and to them there was no difference between sacred and secular so that every individual was expected to do his bit in the piety towards gods, reverence for ancestors and devotion to his city. In this way, religion and civic patriotism were entirely undifferentiated, or to be more explicit, religion was as mixed up with politics as art and education were its essential elements. Life was considered as an organic whole and therefore society also was a living organism.

Thus in Greece also though there were both religion and state, there was no church. It was not a church state as other ancient empires were also not church states. It is true

The Greek State was not a church state. that all of these emphasised unity of belief among

their subjects and could not tolerate any departure, however, insignificant, yet there was no church for 'church' means a separate association for religious purposes as against the political association which we call the state. It has its own officers the priests; its own organisation, the ecclesiastical establishment, and its own constitution which we call theology. Hence to call the ancient states as church states is wrong,<sup>5</sup> though we may call them as such for purposes of argument . . . that is, to suggest that they had strong religious foundations.

Similarly, the Roman state before the rise of Christianity was not strictly a church state, though it had also strong religious foundations. The earliest Roman settlement<sup>6</sup> was a

5. In Rome. purely agricultural community of united house-

<sup>4</sup> Delisle Burns: Greek Ideals, pp. 2—6.

<sup>5</sup> Cambridge Medieval History, Vol. VI, p. 605. We may better call such states as pseudo church states or quasi-church states.

<sup>6</sup> Legacy of Rome, pp. 239—245. The student may read those pages with profit and compare the condition of the Roman Civilization with our own.

holds believing the universe as full of spirits living in woods, hill-tops and springs. These spirits exercised their influence by means of their will. Their festivals too were connected with the seasons of the agricultural year. When this agricultural community became a city state, the old religion was adapted to new needs and the state religion came into being for 'the old cults had been in the hands of individual households' the state now takes them over and consecrates them to its own uses. The great temple of 'Capitoline Hill' is built to symbolise the religious majesty of the state. Even a priestly hierarchy has been created and religious considerations govern the activities of the state and great functions of the state become clothed in religious significance. But there is, yet, no church state as we understand it; the state has only a strong religious basis (though we may say that the state is also a church). The city has its civic religion, of which the civic magistrates are the priests. Religion means devotion to city itself.<sup>7</sup> The city state then comes in conflict with the other Italian peoples and conquers them. It then tries to assimilate the conquered population so that their gods also enter Roman religion. But this was not all. With the coming of Caesar, Caesarism itself became a religion. The Empire, as we have already said, proved to be not only a 'solution' but a 'salvation.' The resulting peace throughout created such religious sentiments as Augustus is 'The Saviour' and 'through him have come good tidings.' The Emperor has thus become the god and the Empire as Barker calls it 'a politico-ecclesiastical institution.' It was a church as well as a state, but not a church state strictly so called.

It is with the coming of Christianity that the differentiation between the sacred and the secular, the spiritual and the temporal,

**6. Christianity.** the religious and the civil departments of life comes into prominence. "My Kingdom," said Jesus, "is not of this world." and hence his followers began to attach little importance to the life of this world: they began to take more care of the saving of their souls, of the life of the hereafter.

<sup>7</sup> Legacy of Rome, p. 55.

In the beginning, the Christians were found scattered in the Roman Empire where there was not only animism, but also the worship of the Emperors and other gods. But when they began to have their own separate organisation, the Roman state felt alarmed as the 'uniformity of belief' which was the chief tenet of its existence was being destroyed. It, therefore, resorted to persecution, and yet in spite of it, the new brotherhood went on increasing. Every local Christian brotherhood began to have its deacons, presbyters and the bishops so that Christianity became a sort of dangerous secret society with its wings wide-spread throughout the length and breadth of the Roman Empire. The duel went on till Emperor Constantine himself became Christian and by the Edict of Milan (313 A.D.) granted toleration to Christians. nay, Christianity, so to say, became the state religion. This marriage between Church and State thus established for the first time in Europe the church state.

But it is not only in Christianity that we find the identity of religion and law, of church and state. Before Christianity, the Jews had their own theocracy in which the affairs of that community were always directly supervised by God Himself. The King was simply the Vicar of God who promulgated not his laws but God's laws so that it was also a church state. After Christianity, Islam came in with Muhammad (Peace be upon him!) as the last Prophet of God and the state he founded also became the church state. As Bryce says, 'In Islam, Law is Religion and Religion is Law because both have the same source and an equal authority, being both contained in the same divine revelation.'<sup>8</sup> This divine revelation is the Holy 'Quran' of Muslims. It is not only the source of all laws but also of their religion so that there is a complete identity of church and state. In Islam, certainly there is no separate priesthood, but there is still theology. It believes in conversion and has its own brotherhood, and its ruler is both a temporal head and a spiritual guide.

But the question of church and state did not assume great importance in the East. In the West, however, the church organisation assumed

<sup>8</sup> Bryce: Studies in History and Jurisprudence, Vol. II, p. 219.

special significance and therefore the relation of church and state ever remained in the forefront.

After the conversion of Constantine and the Edict of Milan when there remained no fear of persecution, the whole church organisation made its appearance with its officers holding charge not only of religious services but also the government of the Christian community. The Council of Nicaea 325 A.D. was called in which the leaders of the church participated to bring about uniformity of belief as Jesus himself had left no such book as the Quran of Muslims in later times. They agreed on Athanasian doctrines and rejected the so-called Arian heresy.

But soon this church organisation came to be divided into the Eastern and Western churches. The reason may be found partly in the character of the peoples that inhabited lands from Rome to Constantinople, and partly in the division of the Empire itself. East of the Adriatic was the Greek world with its Greek mode of life, thought and speech, and west of it the Latin world with its Roman characteristics. With Constantine, Constantinople became the imperial centre and Rome lost much of its former prestige. Nevertheless, there remained two centres of imperial government. Lastly, there came to be the doctrinal differences also on the questions of the worship of images and the 'procession of the Holy Spirit.'

The Church at Rome was one of the earliest Christian brotherhoods and its branches had already spread throughout Western Europe. Whenever any doctrinal difficulty arose, it was naturally referred to the bishop of the imperial city, who thus came to have a great hold on the minds of the people. Besides this religious ascendancy, the church of Rome also began to acquire temporal power as the chief centre of government was now far away at Constantinople. It acquired vast lands and wealth so that when the Barbarians flooded the Empire and the Western Empire was broken, all eyes turned towards the bishop or the Pope of Rome for protection. Having grown in power and prestige, the Pope of Rome began to claim the so-called "Petrine Supremacy," meaning thereby that he was not

only the leader of Christendom, but that he had a divine right or authority of Government. The argument ran thus:<sup>9</sup>

- (1) Peter was given by Jesus authority over the other apostles, hence,
- (2) A church founded by Peter would have rights of authority over those founded in any other way.
- (3) Peter was the first Bishop of Rome.
- (4) The successors of Peter would have authority over the successors of all other founders of churches, therefore.
- (5) The Roman Bishop or Pope had authority over all the churches of Christendom.

But whatever might have been the claim of the Pope, he was still under the Emperor at Constantinople. The overhanging fear of Lombard invasion, however, forced him to look to some other direction and it was in 800 A.D. that he crowned Charlemagne, a Frankish King, the Holy Roman Emperor. Thus the new Roman Empire came into being which was again the church state.

But this church state was different from the first, for here are two powers—the Emperor and the Pope. ‘Who is really supreme’

**The controversy of Empire and Papacy.** is the question that now comes in the forefront and the whole of the middle ages are occupied in this controversy. Sometimes the unity of the *res publica christiana* is maintained by saying that the two powers are the two swords of the Christian community, the one is supreme in the spiritual and the other in the temporal side of human life, as Christ had himself said: ‘Render unto Cæsar the things that are Cæsar’s and render unto God the things that are God’s.’ Sometimes

the supremacy of one is sought for over the other by various arguments. Those who supported the Pope said that (1) as God is the head of the

Universe, in the same sense, the Pope who represents the purpose of God through Christ and St. Peter, must be supreme over Christian people. (2) The church cares for the soul and the state for the

<sup>9</sup>Emerton: Introduction to the Middle Ages, p. 107.

body, and as soul is supreme over the body, the Pope is supreme over the Emperor. (3) The church is the sun, the state moon; and as moon takes its light from the sun, so the Emperor should seek guidance and authority from the Pope. (4) The Pope is supreme over all believers and as the Emperor himself is a believer he has naturally to obey the Pope.

Similarly those who claimed superior power for the Emperor said:

Arguments for the supremacy of the Emperor. (1) While the church and Pope can look after the soul they cannot *defend and protect* which is the business of the state and the Emperor. Hence the Emperor is the keeper of the church, the protector of the Pope himself.

(2) Just as God is sovereign over the earth, the Emperor is sovereign over his territory.

(3) Jesus said that he had nothing to do with this kingdom which was therefore the privilege of the Emperor.

Thus whatever the arguments the result, for our purposes, was the same. *The papalists by subordinating the state made the church a state, and the imperialists by subordinating the church made the state a church.* The medieval state was a church state. state was thus in every sense a church state or there were two parallel organisations in the *republica christiana*.

With the rise of the national states, the idea of Christian Commonwealth falls down, for the Reformation divided the Christian world into Roman Catholics and Protestants.

**9. The church state results in state church.** The Peace of Augsberg (1555) was based on the principle of *Cujus Regio, Ejus Religio*—he who rules a country may settle its religion. Thus the Reformation state came to be based on the religion of the prince and as such was a secular state, for the prince or the princely dominion has come into prominence. Dynasticism which will now rule Europe for long has made its appearance. Religion becomes a tool in the hands of the state. *The church state has resulted in the creation of a state church.* and Machiavelli and Hobbes are its chief exponents. The one definitely pleads for subordinating religion to politics implying

that religion was made for the state, not the state for religion; it was a means to the realisation of state purposes. The other could not tolerate any associations that could claim separate independent authority as against the sovereign. The state was absolute: even the people had no right against it.

In this way, when the break with Rome was complete two problems made their appearance:

**Break with Rome and two problems:** (1) How should the kings justify their own title *as against the Pope* as well as *against the rising claims of the people* for liberty?

(2) If the kings were to settle the religion of their state, how should they treat the people *who do not accept their religion?*

The first results in the theory of the Divine Right of Kings and the second in the theory of Religious Toleration.

We have already seen how both Pope and Emperor tried to justify their position by Divine Right in the middle ages. This was but the first stage in the development of this doctrine. The second stage came in when the Divine Right of Pope and Emperor was transferred to national kings as against the arbitrariness of the Pope and the third stage was reached when the peoples began to be restive under the absolute authority of their own monarchs and began to clamour for privileges. It is with the last two stages that we are concerned here.

The classical statement of the theory of the Divine Right of Kings is to be found in the writings of James I of England in whose hands it has proved to be a double edged weapon . . . striking both the Pope and the people. Figgis<sup>10</sup> thus summarises its essential propositions:

**James I.**

1. Monarchy is a divinely ordained institution.
2. Hereditary right is indefeasible and no usurper can have a lawful authority if the heir is still living.

<sup>10</sup> J. N. Figgis: *The Divine Right of Kings*. This is the best book on the subject.



3. Kings are accountable to God alone. Law is but an expression of the king's will and all assemblies and Parliaments exist at his pleasure.
4. Non-resistance and passive obedience are enjoined by God. Hence any attempt at resistance or rebellion will result in sin and utter damnation.

The theory was supported through 'Biblical' texts such as 'By me kings reign\* and princes decree justice.' and through Adam who was the only rightful wielder of authority from God.

So long as the theory was based on religious foundations, it was unquestionable, for there was little place for argument and discussion. But when Filmer tried to support it on the basis of the *natural* constitution of human society, he dug its grave. The king is the father of the people just as Adam was the father of human family . . . was an argument which gave people a loophole for discussion and criticism.

**Filmer and Nalson.** \* Even to this day, this form of the Divine Origin of Authority and the Divine Right of Kings is to be found in Proclamations associated with English Monarchy. Thus after the abdication of ex-King Edward VIII and on the accession of King-Emperor George VI a Proclamation was read at the Viceroy's House by the Secretary to the Government of India in the Home Department on December 14, 1936. Besides the 'By Me Kings reign' idea, it also referred to the hereditary right of kingship. The following is the text of that Proclamation (which for the interest of the reader, I reproduce from "The Leader," December 16, 1936). "Whereas by an Instrument of Abdication dated the 10th day of December, 1936, his former Majesty King Edward the Eighth did declare his irrevocable determination to renounce the Throne for himself and his descendants and the said Instrument of Abdication has now taken effect whereby the Imperial Crown of Great Britain, Ireland and all other his former Majesty's Dominions is now solely and rightfully come to the high and mighty Prince Albert Frederick Arthur George; we the Governor General of India and the Members of the Governor General's Council therefore do now hereby with one voice and consent of tongue and heart publish and proclaim that the high and mighty Prince Albert Frederick Arthur George is now become our only lawful and rightful Liege Lord George the Sixth by the grace of God of Great Britain, Ireland and British Dominions beyond the Seas, King Defender of the Faith, Emperor of India;

To whom we do acknowledge all faith and constant obedience with all hearty and humble affection; beseeching God by whom Kings and Queens do reign to bless the Royal Prince George the Sixth with long and happy years to reign over us, God save the King."

Figgis well summarises, in the form of a syllogism, the argument of Filmer:

What is natural to man exists by Divine Right

Kingship is natural to man

Therefore Kingship exists by Divine Right.

Thus he shifted the basis of the doctrine from *Divine Right* to *Divine approval or ordering of nature*. Hence when Nalson tried to justify monarchy on *utilitarian considerations* . . . on its antiquity or its universality . . . the way was left open for all sorts of inroads resulting in the end in the complete triumph of the Doctrine of Natural Rights or the Divine Right of peoples.

The theory of Religious Toleration was also as much the child of circumstances and times as the theory of Divine Right of kings owed its existence to special conditions. From the point of view of its historical evolution, the charter of Milan that Constantine granted to Christians was perhaps the first milestone in the way of Religious Toleration, but from that time up to the Reformation there was no further move as apparently there was no necessity of it because of the unity of the Republica Christiana. With the break up of the universal Christian community, the problem at once presented itself in an acute form, for butchery began to be practised in the name of religion. The Massacre of St. Bartholomew will ever be remembered as one of the most heinous examples of intolerance as it prevailed in the Europe of the 16th century. This is why we regard the Edict of Nantes of Henry of Navarre as the first great charter of toleration or religious liberty in modern times.

The French L'Hopital was the first to warn against the consequences of sectarianism. He advised the European peoples to cling to the title 'Christian,' for to him the terms Lutherans, Huguenots and Papists were diabolical terms. Similarly, Bodin pleaded for the toleration by the state of the seven beliefs that were prevalent in the France of his time. But it was Locke who for the first time set forth a logical theory of toleration in his 'Letters on Toleration.'

To Locke, the ends of civil government and religion are two different things—the one standing for the protection of life, liberty and property, the other for the salvation of the soul.

**Locke:** While men are born as members of a state, they are not so born in the case of a church which is but a voluntary association for the public worshipping of God. Hence the magistrate has no business with the 'saving of the soul.' He should not persecute people for uniformity of belief for no 'faith' can be inculcated by force. Fear may make them hypocrites, but it cannot change their religion. On the other hand, a good reasoning with them may be far more successful than any intimidation. Moreover, to insist on the people to follow the religion of their prince would be a dangerous practice for there are so many religions in the world and so many princes that the whole affair of faith and belief will be marred.<sup>11</sup> Thus toleration of religious belief ought to be the rule rather than the exception, and it is only in a few cases that toleration ought not to be granted;<sup>12</sup>

(1) "First, no opinions contrary to human society, or to those moral rules which are necessary to the preservation of civil society, are to be tolerated by the magistrate."

Cases in which  
toleration ought not  
to be granted.

(2) Secondly, after speaking of those who say 'that faith is not to be kept with heretics,' that 'kings excommunicated forfeit their crowns and kingdoms,' that 'dominion is founded in grace,' he proceeds,

"These, therefore, and the like, who attribute unto the faithful, religious and orthodox, that is, in plain terms, unto themselves, any peculiar privilege or power above other mortals in civil concerns, or who, upon pretence of religion, do challenge any manner of authority over such as are not associated with them in their ecclesiastical communion: I say these have no right to be tolerated by the magistrate, as neither those that will not own and teach the duty of tolerating all men in matters of mere religion. For what do all these and the like doctrines signify, but that they may, and are

<sup>11</sup> This leads us to believe that Locke would never have favoured a state church and in contemporary times would have blessed Figgis on his ideas.

<sup>12</sup> These passages from Locke's Letters have been reproduced here from 'Locke' by Thomas Fowler, pp. 163-164.

ready upon any occasion to seize the government, and possess themselves of the estates and fortunes of their fellow-subjects; and that they only ask leave to be tolerated by the magistrates so long until they find themselves strong enough to effect it?

(3) Thirdly, that church can have no right to be tolerated by the magistrate, which is constituted upon such a bottom that all those who enter upon it do thereby ipso facto deliver themselves up to the protection and service of another prince. For by this means the magistrate would give way to the settling of a foreign jurisdiction in his own country, and suffer his own people to be listed, as it were, for soldiers against his own government.

(4) Lastly, those are not at all to be tolerated who deny the being of God. Promises, covenants and oaths, which are the bonds of human society can have no hold upon an atheist. The taking away of God, though but even in thought dissolves all."

This position was further pushed forward by John Stuart Mill who pleaded not merely for the toleration of religious opinion, but for all opinion. The stifling of opinion to him is nothing but making the society the poorer without it: it is a method of killing the truth rather than of preserving it. Tom Paine seems to consider the very 'word' of toleration as objectionable. To him toleration is not the opposite of intolerance, it is the counterfeit of it. Both are despotisms. The one assumes to itself the right of *withholding* liberty of conscience and the other of *granting* it. The one is the Pope armed with fire and faggot, the other is the Pope selling or granting indulgences.<sup>13</sup>

In our own days, however, religious persecutions<sup>14</sup> have become things of the past except perhaps in Soviet Russia<sup>15</sup> where there is going on a crusade against God Himself, but all this is more or less political, not religious. Even the theory of the Divine Right of kings seems to

*In our times.*

<sup>13</sup> D. G. Ritchie: *Natural Rights*.

<sup>14</sup> *Ibid.* The student may with advantage read the various grounds of persecution in the history of 'religious toleration' that have been stated by Pollock and quoted by Ritchie.

<sup>15</sup> The latest phase of persecution has been seen by the world in the case of the Jews in Hitlerite Germany.

have vanished with the fall of Hohenzollerns in Germany, though in Japan, in theory at least, it still holds good.

In the modern states we have the so-called 'established' churches as a legacy of the Reformation period, but there is a move

**Figgis and the free church in a free state.** for the freedom of churches from the control of the state. Writers on the 'rights of churches' are pleading not merely for 'disestablishment,'

but for their 'freedom' and **Figgis is the best exponent of this 'free church in a free state.'** The era of the church state seems to be definitely closed with the abolition of the Caliphate in Turkey, and the institution of the state church is now being attacked vehemently so that the future is to see if the 'free state' is going to live with the 'free church.' The only existing anomalous case was that of Italy and the Roman See or Pope's domain in Italy. The latest treaty<sup>16</sup> between the Pope and Fascist Italy has also regulated their relations so that we can now say that in Italy there is the state church, but the Roman See by itself is nothing but a church state.

<sup>16</sup> From the Statesman's Year Book, 1934, p. 1237.

"For many ages the Pope had exercised a temporal sway over a territory stretching across mid-Italy from sea to sea. But this had been incorporated in the Italian Kingdom, and by the Law of May 13, 1871, there was guaranteed to the Pope and his successors for ever, besides possession of the Vatican and Lateran palaces and the villa of Castel Gandolfo, a yearly income but this remained unclaimed and unpaid until February 11, 1929 when a settlement of the 'Roman question' was arrived at by three treaties between the Italian Government and the Vatican. On that day there was signed; (1) a Political Treaty, which recognised the full and independent sovereignty of the Holy See in the city of Vatican; (2) a concordant to regulate the condition of religion and of the church in Italy; and (3) a Financial convention according to which an agreed amount of money was paid by the Italian Government on June 7, 1929."

"As regards religion in Italy, the Treaty admits and confirms the principle established by the first article of the Fundamental Statute of the Kingdom of Italy that the Catholic Apostolic Roman Religion is the only religion of the state. Toleration is granted to all other creeds. The appointment of Archbishops and of Bishops is made by the Holy See, but before proceeding to such appointments the Holy See submits to the Italian Government the name of the person to be appointed in order to obtain an assurance that the latter will not raise objections of a political nature." *Vide*, p. 1039, under Italy, The Statesman's Year Book, 1934.

In relation to Italy, however, we will not be far wrong if we say that it marks a transition to 'The Free Church in a Free State.\*

\* Here it would be interesting to recall the stately ceremony in the House of Lords which was performed by the Ex--King-Emperor Edward VIII (now Duke of Windsor) in connection with the opening of the First Parliament of his reign on November 3, 1936. "In perfect dignity the Ex-King ascended the dais and read the Protestant Oath, afterwards kissing the scarlet Bible and signing the Oath." The Oath which the Ex-King-Emperor read 'solemnly and sincerely' runs thus—"In the presence of God I testify that I shall be a faithful Protestant, that I will, according to the true intent of the enactments which secure Protestant succession of the Throne of my realm uphold and maintain the said enactments to the best of my power and according to law."

This Oath, for our present purpose, is the finest example of the marriage of church and state, and, therefore, of the Established Church. What Figgis wants is, in the first instance, disestablishment and secondly, if possible, the complete separation of church and state so that his idea of a Free Church in a Free State be realized.

## CHAPTER XIII

### THE THEORY OF RIGHTS

#### (a) Legal, Moral and Natural Rights:

Up to this time, we have been discussing either theories regarding the origin of the state or the character of the modern state. Now

**The Individual  
and the state  
and various  
theories.**

we will take up the relation of the individual to the state. We will first discuss the question of the rights and duties of the individual and then we will see, how in Political Philosophy, the individual stands in relation to the state. In so doing, we will come across theories which stand more for the rights of the individual than for the claims of the state, and also those which stand more for the claims of the state than for the rights of the individual. The former theories have been called the theories of Individualism, the latter, the theories of Collectivism as emphasising the power of the collectivity, the society or the state, that is, they emphasise the duties of the individual. These include the so-called theories of Idealism and Socialism. There is one more theory, that of Utilitarianism which occupies a peculiar position between Individualism and Collectivism. Though wishing the good of the individual, it stands for the action of the state. We will therefore discuss it after 'Rights' and will then take up Individualism, Idealism and Socialism.

From the very beginning of this book we have been saying again and again that man is a social being. He lives with other

**Rights.**

fellowmen for he cannot live alone. Living with others means relationship with them or interdependence. This is why we live in families and towns, in cities and countries. Our life along with others thus involves claims and

counter-claims, the questions of 'mine' and 'thine.' It is these claims of every one of us that we call Rights.

While dealing with the state of Nature in the Social Contract theories of the origin of the state, we had come across the fact that every individual had some natural rights. Now whether they were really rights or not we can only know if we recapitulate the character of the state of Nature.

The state of Nature, to Hobbes, is one of war in which every one is an enemy of the other. The life of man is 'solitary, poor, nasty, brutish and short.' It is *solitary* because the in-

**In Hobbes.** individual has *no relation* with other human beings: he is totally *unconnected*. It is *short* because he is *every* minute under the impending fear of violent death and he can save himself only by means of his power—physical or mental. Thus it was a life in which the individual's own preservation of his identity was the rule rather than the exception and it was an *identity* which had nothing to do with other identities. In a way of life which was to this extent *atomistic* in spirit and *separate* in actuality, the individual had to account to none save himself and he could justify his existence or self preservation only on his *powers*. Thus all questions of mine and thine could only be decided by superior power. *Might was in this sense the only right and right in the state of nature meant only might.* One could claim a thing as his own if he had the *power* to make it his own, otherwise it belonged to no body. Thus when the social contract writers are speaking of 'natural rights' of the individual, they only mean the *natural powers* of the individual. They have wrongly used the word 'rights' for 'powers.'

What we have here said of Hobbes is also true of Locke (and even of Rousseau) in spite of the fact that the state of nature to him is one of 'peace, good will, mutual assistance and self-preservation.'

**In Locke.** The individuals may not fight as in Hobbes' state of Nature, they are yet apart and *separate* from each other, and they find their life so very unsafe and insecure that they quit it because they find it difficult to protect their own lives as well as of others . . . for in their own cases, reason or natural law



remained ineffective by reasons of personal gain or self-interest, while in those of others they found themselves powerless. In this way, in Locke also, there is no question of *rights*: it is one of *powers only*.

In short, in a way-of life which was quite *individualistic* and *segregated* there could not arise the question of 'rights.' There were certainly claims and counter-claims, but they could only be decided by power that each individual possessed and which he could exercise to his advantage. Every individual thus had power, not rights, *for rights can only arise in a society* and the state of nature was anything but society. Society involves *relationship* of human beings and it was this relationship which was absent in the state of nature. Relationship in society further involves claims and counter-claims which are thus adjusted to make life social and harmonious. For this purpose, the claims require *recognition* by the society. This means that a man may be allowed to do a particular thing in a way or to such extent that it does not adversely affect the similar claim and the similar exercise thereof by other individuals. Every claim in society thus carries with it the due recognition of the similar claims of others. In other words, it means that *right carries with it the concept of duty*. In the words of Hobhouse 'rights and duties, then, are conditions of social welfare, or as we define such welfare, of a life of harmony to this welfare every member of the community stands in a double relation. He has his share in it. That is the sum of his rights. He has to contribute his share. That is the sum of his duties.'<sup>1</sup> Thus *a right is a claim or power on the part of an individual to so use it that by its use he is not only developing his own personality, but also he is not in any way encroaching upon such use of such a claim of others in the development of their personalities*. A mere claim on the part of an individual is not sufficient. It must have social recognition to become a right. Rights thus are claims socially recognised and are therefore prior to state which does not create them, but only recognises them.<sup>2</sup>

<sup>1</sup> L. T. Hobhouse: *The Elements of Social Justice*, p. 39.

<sup>2</sup> H. J. Laski: *A Grammar of Politics*, p. 89.

If these socially recognised claims of the individual have also been recognised by the state we call them his 'legal rights,' otherwise we call them his 'moral rights'.<sup>3</sup> Holland defines a legal right as 'a capacity residing in one man of controlling with the assent or assistance of the state, the actions of others,'<sup>4</sup> and in his terminology a moral right would be a capacity residing in a man to influence the acts of others, not by his own strength or of the state, but by the opinion or force of the society; or as Ritchie puts it, it would be 'the claim of an individual upon others recognised by society, irrespective of its recognition by the state.' The only sanction of a moral right as such is the approbation and disapprobation of private persons.<sup>5</sup>

But one may take exception to what we have said of legal right. We first defined right as a claim not adversely affecting others, and then we said that if recognised by the state, it becomes a legal right. Here it seems that a *moral right becomes a legal right*. and yet there are many instances in our society in which legal rights often conflict with the claims of others, and are therefore not necessarily moral. But while this contention may be true, the view we have taken is also not wrong. A right can only be a right if it is not conflicting with the similar right of another person; and if a conflicting claim has been recognised by the state, it has become for the lawyer a legal right, but in fact it remains only *legal power*. This discrepancy in our life is due to the imperfect nature of our own society and can be illustrated very easily. Suppose an invader has conquered a territory. He would award vast lands not only to his followers, but also to those among the conquered who might have helped him in his conquest. Thus whatever these people would possess they would possess on the basis of legal

<sup>3</sup> L. T. Hobhouse in 'The Elements of Social Justice' on p. 40 says "a recognised moral right is a claim which the actual moral judgment of the community upholds."

<sup>4</sup> T. E. Holland: Jurisprudence, p. 83.

<sup>5</sup> D. G. Ritchie: Natural Rights, p. 79.

In this connection the student may read the criticism of L. T. Hobhouse in 'The Elements of Social Justice,' p. 39, Footnote.

power, not right, for in the grant of property no consideration of former owners has been taken. Legality and might here coincide. Thering seemed to have such a point in view when he defined rights as 'legally protected interests,' while Holland has so framed his definition that legal right might be equally applicable to one derived from pure might or from moral considerations, that is, his definition seems to include within legality cases both of power and morality. Giddings, however, confirms what we have said when he writes 'A right . . . is a claim or an immunity or a liberty that is not only asserted by an individual or by a group, but that also . . . is allowed and confirmed by other individuals and other groups . . . A juristic right, accordingly, is a claim, an immunity or a liberty that is created or allowed, confirmed, and enforced by a state . . . a juristic right may or may not be right.'

But besides these legal and moral rights, there are certain other claims which individuals have often put forward as their 'natural rights' and we had already occasion to begin our discussion with the term 'natural rights' as it was used by the social contract writers. Now we will examine this term rather critically.

#### **Natural Rights.**

First of all we must know the meaning of the word 'natural.' The term 'nature' has been differently used by writers of Political Philosophy and Ritchie<sup>1</sup> gives us the various meanings which it has connoted at different times.

#### **Various Meanings of Nature.**

In the first place, it has been used to denote the '*totality of what exists*' . . . the whole universe. In this sense it has been used in the middle ages, which has been very clearly set forth by Gierke as depicting the reflection of God on earth.

Secondly, it has been used for '*what exists independently of man*,' that is, as an antithesis to human, social or artificial. In this sense, it was used by the Sophists in Greece when they opposed the conventional by the natural and also by the Social Contract writers.

Thirdly, 'nature' has also been used in the purely human sphere in the sense of the '*original*' and this we find when the acquired

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<sup>1</sup>F. H. Giddings: *The Responsible State*, p. 56-57.

<sup>2</sup>D. G. Ritchie: *Natural Rights*, Chap. IV.

traits of man have been opposed by the natural. In this sense, in this essay on *Inequalities*, Rousseau is again and again using the term natural.

Lastly, it has been used to represent "*the ideal what ought to be*," whether it exists as a fact or not. It is in this sense that Green commends it to be accepted and it is *the* sense in which it ought to have been used by the social contract writers.

Now the term 'Natural Rights,' as used by the social contract writers, according to our analysis, comes to mean the original powers

**The meaning of Natural Rights.** of the individual, powers which were 'inherent' and 'imprescriptible,' existing independently of society and based on the physical strength or the

mental qualities of the individual. In this sense, natural rights are presocial and come to mean only the physical powers of each individual. Hence the so-called 'natural rights' are a misnomer.<sup>9</sup> They are neither natural nor rights. They are not 'rights' because rights can only arise in a society, in a system of relationship of human beings which system was absent in the state of nature. Rights, therefore, there meant simply powers. And they are not 'natural' for natural in the sense of presocial has no meaning, for the only natural thing to man is society. The individual from his very birth finds himself in society which is therefore prior to him and hence all his thoughts and ideas are moulded by his environments, that is to say, they have the social stamp upon them. If natural means the original, then original can only mean personal, not ultra-social. It can only stand for the characteristic personal ideas or qualities of the individual, which are the result of his peculiar experience *in society*, and this is a meaning which is just against the view-point of the social contract writers. Thus the only sense in which we can use the term natural rights is neither presocial nor innate: it is the 'ideal'—the sense in which they stand for those claims which the individual wants that the society *ought to* recognise because they are so very essential for its betterment, which as Green says, are neces-

<sup>9</sup> T. H. Green: in his 'Lectures on Political Obligation' on p. 47 calls them 'innate' and 'antecedent to society.'

<sup>9</sup> T. H. Green: *Lectures on the Principles of Political Obligation*, p. 48.

sary to the end which it is the vocation of human society to realise.<sup>10</sup> Natural rights, in this sense, can only arise *in* society, not without it. They are *social*, not presocial claims; they are *communal*, not *personal* or individualistic; they are *ethical*, not physical. They do not mean that might is right. They mean that right is might. They ought to be recognised as rights because they are right for the well being of society itself, or as Hobhouse states 'a true moral right is one which is demonstrably justifiable by relation to the common good, whether it is actually recognised or not,'<sup>11</sup> that is, it is 'an element in or condition' of the real welfare of its possessor, which on the principle of harmony is an integral part of the community.'

These natural rights, therefore, are connected with personality and personality is itself an element in the common good. Personality stands for 'the fulfilment of man's vocation as a moral being' and rights are the means for that personal development or self realisation; for

Natural Rights and Personality.

as Laski says 'rights, in fact, are those conditions of social life without which no man can seek, in general, to be himself at his best.'<sup>12</sup>

In our own times, the doctrine of natural rights has been further pushed forward by several writers. Laski is one who has set forth

the 'creative theory' of rights, as he himself says, 'the theory of rights is the avenue to a creative view of politics.' Now if rights are connected with personality, with man's vocation in social life, they are correlative with functions, and man's functions do not end with the state only which is in no sense the social whole. There are other associations also in the community which is, therefore, a federal process. To limit the individual's rights to the state alone thus destroys his personality and as such, in the interest of the common good, it becomes sometimes his duty to resist the state. Thus all these associations have their rights which ought to be recognised by the state for they too are not created by it. They are as natural to men as,

Laski's creative theory of Natural Rights.

<sup>10</sup> *Ibid.*, p. 34.

<sup>11</sup> L. T. Hobhouse: 'The Elements of Social Justice,' p. 40. What we have called simply 'moral right,' Hobhouse calls 'recognised moral right,' what we have stated as 'natural right,' Hobhouse calls 'a true moral right.'

<sup>12</sup> H. J. Laski. . . A Grammar of Politics, p. 91.

in the words of Aristotle, the state is natural to them. They are real personalities and therefore possess rights of their own. Hobhouse has well put this aspect of group-personality when he says: "Any constituent element that is necessary to the life of the community may be said to have its rights. Thus any corporate personality . . . a family, a municipality, a company, a trade union is a possible subject of rights. We may even say that functions, or at any rate, the representatives of functions have their rights. Thus religion, patriotism, education, in so far as they contribute to the common good, have a function to perform and a certain claim on society to maintain the conditions under which these functions are best fulfilled. In fact, if those conditions are not maintained, they are starved, and the common life is so far the poorer. Finally, the community itself may be said to have rights, that is, just claims upon its members and all its constituent elements."<sup>13</sup> Thus any system of rights, as Laski puts it, must harmonise the three aspects of social life. It must take into consideration the ideal claims of the individual for the common good; it must take cognizance of the reality of the claims of associations; and finally, it must not lose sight of the claims of the community on its constituent elements.<sup>14</sup>

Besides Mr. Laski, the development of Sociology and Social Psychology has also led many writers to put forward a critical view of the notion of rights. Gumplowicz who believes that our modern society is the result of force sounds an extremely realistic note when he denies the validity of any conception of natural rights, for political rights to him 'are the rules of the game in the social process which are accepted and applied by the community through a constitutional and statutory law.' Rights, viewed in this sense, are not what ought to be, according to some ethical standard, but what is here and now.<sup>15</sup> He himself puts his view thus . . . "The premise of inalienable human rights rests upon the most unreasonable self

**Gumplowicz's  
realistic theory  
of Natural  
Rights.**

<sup>13</sup> L. T. Hobhouse: *The Elements of Social Justice*, p. 41.

<sup>14</sup> H. J. Laski: *A Grammar of Politics*, p. 141. The student will better read Miss M. P. Follett's book 'The New State' also as she too puts forward the creative theory of rights.

<sup>15</sup> H. E. Barnes: *Sociology and Political Theory*, p. 146.

deification of man and overestimation of the value of human life, and upon complete misconception of the only possible basis of the existence of the state . . . Rights are not founded upon justice . . . On the contrary, justice is created only by the actual rights as they exist in the state. It is the simple abstraction of political rights and it stands and falls with them."<sup>16</sup> We cannot accept this view as it completely ignores the ethical side of human life which is as *real* as the political. Moreover, it takes cognizance only of physical force as the power behind all rights and does not realise the limitations which even brute force has to recognise.

Giddings is another sociological writer who has elaborately discussed the notion of rights. After discussing the meaning and significance of legal rights, he comes to habits of **objective theory of natural rights.** toleration, and makes the significant remark that "habits are 'natural' in every sense of the word. They are 'not instituted, they are not invented: they grow.'"<sup>17</sup> In course of time, 'animal habits of toleration become human *mores* or customs of immunity and liberty.' These 'customary claims, immunities, and liberties of the individual not only were asserted by him, they also were consented to and confirmed by his fellows. They were not merely right: they were rights. In a word, they were natural rights . . . not instituted, not invented, but products of an unconscious growth and inheritance. Collectively, they were the stuff or content of natural justice. They held men together in effective social cohesion for ages before political organisation came into being. They underlie political organisation now. They are the moral foundations of the responsible state, which adapts itself to them and builds upon them.'<sup>18</sup> Here we have an 'objective theory' of natural rights based on ethical foundations, a theory which cuts at the very root of Gumpłowicz's conception. To Giddings, natural rights are not simply ideal. They are as real as anything for 'there are natural rights of the community, and natural rights of the individual. Both the community and the individual have

<sup>16</sup> *Ibid.* (quoted), p. 147.

<sup>17</sup> F. H. Giddings: *The Responsible State*, p. 63.

<sup>18</sup> F. H. Giddings: *The Responsible State*, p. 64-65.

a natural right to exist and a natural right to grow or develop.<sup>19</sup> This is in strong contrast to the view of juristic writers who regard legal rights the only 'real' rights in social life.

The late Professor Graham Wallas is another writer who has set forth the doctrine of natural rights from the stand-point of

social psychology. Barnes calls his theory 'a  
**Graham Wal-** discriminating, dynamic and positive theory of  
**las' dynamic** natural rights.<sup>20</sup> Wallas begins by saying that  
**theory of natural**  
**rights.** 'the term Natural Right acquires a definite and

measurable meaning if we consider it . . . in relation to the psychological fact that obstruction of human action of the normal course of certain instincts, sex, property, family affection, leadership and following, etc., causes a feeling of painful resentment. When this happens, if we conceive of our position as primarily one of personal helplessness, we say we are 'unfree': if we conceive of our position as a certain relation to society we say that we are 'wronged'; the two feelings of unfreedom and wrong are different, but closely related.<sup>21</sup>

Natural rights, therefore, he regards 'real things, arising from real and permanent facts in our psychology,' and as Barnes summarises his viewpoint, 'he differentiates what is natural for us to claim in response to our native impulses, which were developed in a primitive environment, from what is socially desirable for us to have in our highly complex modern environment. What our primitive nature may desire must be progressively limited and compromised with what it is now socially right for us.'<sup>22</sup> And it was this lack of understanding as to real meanings of natural rights that they were always regarded as dangerous; as Wallas himself puts it 'if one considers the use of the term Natural Right during the centuries when it had its greatest driving force, one continually finds that confusion and bloodshed was caused by the fact that there was no

<sup>19</sup> *Ibid.*, p. 65. Giddings further uses the term 'moral right' as a claim for the humanity or a community to exist and says 'The natural right embodying and expressing the moral right to exist is the right of self-defence, comprising on the part of the community the right to wage defensive war,' p. 65.

<sup>20</sup> H. E. Barnes: *Sociology and Political Theory*, p. 152.

<sup>21</sup> Graham Wallas: *Our Social Heritage*, p. 183.

<sup>22</sup> H. E. Barnes: *Sociology and Political Theory*, pp. 152-153.



common ground between men who felt a passionate instinctive desire for their Right, and men who demanded a rational explanation and delimitation of them.<sup>23</sup> He quotes historical illustrations to show this confusion and says that Hobbes 'insisted on a psychological basis for political theory but could give no psychological explanation of the passion for Natural Rights,' and Locke 'insisted on the reality of Natural Rights but gave a metaphysical explanation of them.' Bentham did not regard them even worth consideration for they were 'nonsense upon stilts,' and in America, they were differently interpreted by North and South.<sup>24</sup> 'Both the psychological and the metaphysical argument suffered from the fact that men have continually ignored the difference between what it is natural to us to claim, and that which it is, in view of the whole circumstances, good for us to receive: if a claim is natural men have assumed that its satisfaction is good for us, and if its satisfaction is good for us, they have assumed that the claim is natural. One would say that they have played with two different meanings of the word 'right,' if it were not that they have never recognised that the two meanings are different.'<sup>25</sup>

The viewpoint here presented can be very easily understood through an Indian example. Influenced by European ideas of nationalism and democracy, of liberty and sovereignty, of the people, Indians have also been

An Indian Example. talking of the 'natural right' to liberty, and the Indian National Congress has already passed a resolution claiming the right to independence for India. This demand according to the arguments of Wallas, can be set forth thus:

In the first place, Indians seem to think themselves 'unfree' and 'wronged' in a certain way, that is, by seeing independent countries all over the world, they feel that their country is lagging behind and they find themselves handicapped in trying to achieve India's development. They have therefore the *real psychological fact* with them, that is, the obstruction of the normal action of the instinct of being free.

<sup>23</sup> Graham Wallas: *Our Social Heritage*, p. 184.

<sup>24</sup> *Ibid.*, pp. 184—186.

<sup>25</sup> Graham Wallas: *Our Social Heritage*, p. 186.

Secondly, this claim has already brought the twofold confusion that Wallas has emphasised—the Congress asserting a passionate instinctive desire for *the rights* of the Indian people, the Government demanding *a rational explanation and delimitation of them*.

Thirdly, this attitude of both clearly shows that there is no common ground between them, that both of them are playing on two different senses of *right*. The Congress is emphasising the 'natural rights' of the Indian people, the government is asking it to prove *the right* in these claims, that is, the good in them after taking *all the circumstances* into consideration.

The Round Table Conferences had already been called when Wallas was alive, and who knows he might have approved of this method as a good *via media* between rights and right, between innate desire and rational explanation.<sup>26</sup>

The Indian Round  
Table Conferences.

### (b) The Right to Life:

Having examined the notion of rights in its different aspects, legal, moral and natural, we may now turn to *specific rights* which have been generally claimed as 'natural.' The

**Its meaning.** most important of them all is the right to life.

We have already seen how the term right is a claim on the part of an individual to so use it that he is in no way encroaching upon the similar claims of others. *The right to life, therefore, means a claim to so live that one's existence is in no way adversely affecting the similar existence of others.* The very notion of personality fades away if the individual loses his life, and human society would be no where if the sacredness of this claim is not accepted. The right to life thus is the very core of humanity. Such being the sanctity of human life, institutions like the Sati in India and infanticide in Rajputana and Ancient Arabia and the practice of cannibalism in primitive times were direct attacks on human personality and as such were unnatural and inhuman.

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<sup>26</sup> The student may read for his interest and information the similar view of Hobhouse in his 'Elements of Social Justice,' pp. 41—46.

But these illustrations introduce several important considerations before us. Can the individual take his own life? Can he take the life of another man or other men? Further, can the society take the life of the individual? These are questions which we will presently attempt to answer, but before we do that we may better illustrate the problem we are discussing.

**Several questions.**

All animals have the instinct of self-preservation, and man being himself an animal also possesses the instinct of self-preservation.

**The problem.** But we also know that man does not always remain rational. Sometimes he is overpowered by feelings and emotions and forgets not simply the due consideration for others, but also does not mind his life itself. If his anger on his wife's infidelity, supposed or real, has gone beyond his forbearance, he may kill her or he may himself commit suicide. Similarly, if a wife feels that the death of her husband has left her in a precarious condition or that, because of her intense devotion to him, she thinks that her life is not worth living after his death, she may fling herself in the funeral pyre of her husband or may desire to be buried alive along with her dead husband. Further, the parents because of extreme penury and because of the fact that they cannot bear the scene of agony presented by their hungry and thirsty children relieve themselves of this helplessness by putting an end to their lives.

The question that comes to our mind through these illustrations is whether *such actions* are to be allowed or not, and *who* is to allow or disallow them, that is, who is to be the final judge of the maintenance of the individual's life

**Right to life, absolute or relative.**

... the individual himself or the society in which he is living. In other words, the question turns upon the fact whether the right to life is absolute or relative. It is visibly not 'absolute' from the very definition of right which we have already considered, for a right always involves duty. It is always 'relative' and this relativity is not merely to *others*, but to *society as a whole*.

It is relative.

Humanity, like the body of an individual is an organism. Just as in this *physical* organism, if one organ is hurt, it is not simply *others* that are affected but *the*

*whole*. In the same way, in the *moral organism* of humanity, if one life is destroyed, it is not simply a few that are affected it becomes the concern of the whole. Thus the community has always a prior claim over any and every action of the individual and the test by which his action is to be judged is *not private*, but *social*. Hence if the community wants to take the life of the individual, it must be on

the basis of the common good, and if the individual wants to take that life, it might be his own or of any other, it must also be in the interest of the common good. Thus the final test of determination is the common good, and the final judge is the community, though in some cases, the individual may also become the judge, either because the community of which he forms part is inarticulate or because he feels it too urgently, by virtue of his special position and experience, to be in the interest of the common good.

Having thus determined the final test and the final judge in the matter of human life, we may now take the three questions one by one and in detail.

Can the individual commit suicide is the first question that we have to deal. From the tests we have just now considered, it is

**1. Can the individual take his own life?** evident that an individual can claim no such right, for, in his action of suicide, there is, first of all, no notion of the common good, and secondly, the real judge of his action ought to be the community of which he is an inseparable member and which will become the poorer because of his loss. Suicide, therefore, is immoral because it cuts at the very root of human life.

The man might think that because of certain circumstances his life was useless, but to the community it would be an irreparable loss . . . the loss of one personality which has its own potentialities. Besides, his relations or those near and dear to him must necessarily be adversely affected. This shows how the action of one individual can inflict an injury on the healthy life of the community. Thus,

on the same grounds, even Sati and burying alive of wife with the dead husband is unjustified, for the woman might still be capable of social service in a variety of ways.

But if the case of suicide is such that the individual who has committed it has not only no relations whatsoever to mourn him, but

has also been permanently incapacitated by disease  
**A special case.** so that his life itself has become a burden on him.<sup>27</sup> then his action may be condemnable by *virtue of our humanity*, but it is not very wrong, for even though he had himself no idea of social good, his action has indirectly relieved society of an unnecessary burden. And if his disease was *contagious* also, then his action was decidedly for the common good, though it might have been *morally repugnant* to us as human beings.

Fortunately for us, in our own times, Mahatma Gandhi's decision to *fast himself unto death* for the good of the Hindu community

and in the interest of humanity has given us  
**Fasting to death.** much food for speculation and thought. Though the 'Fast of September 20, 1932' is accidentally connected with a political problem, yet the view that the Mahatma has taken and emphasised is religious, moral and humanitarian.

In his letter to Sir Samuel Hoare,<sup>28</sup> he recalls the statement that he had made at the Round Table Conference that he would *resist*

*with his life* the grant of separate electorates to  
 The Mahatma's letter of 11th March, 1932. the depressed classes, and as the British Government was going to give its decision any moment,

he thought it advisable to acquaint it as to how he looked at that question. Thus, he says, 'I hold that separate electorate is harmful for them and for Hinduism, whatever it may be from a purely political standpoint . . . So far as Hinduism is concerned separate electorate would simply vivisection and disrupt it. For me the question of these classes is predominantly moral and religious. The political aspect, important though it is, dwindles into insignificance compared to the moral and religious issue . . . I, therefore, respect-

<sup>27</sup> It would be interesting to recall here the reasons which led Mahatma Gandhi to get a calf killed several years ago. Its intense suffering because of disease, was unbearable, and hence the Mahatma took this step undaunted by the repercussions that might follow his action. The orthodox Hindu mind was no doubt shocked and there was a great hue and cry in the press, but the Mahatma met all arguments boldly and in the end was successful in calming the atmosphere.

<sup>28</sup> 'The Leader,' September 14, 1932, p. 9 (Letter of 11th March, 1932).

fully inform His Majesty's Government that in the event of their decision creating separate electorate for the depressed classes, *I must fast unto death* for . . . the contemplated step is not a method (of political game), it is a part of my being. It is a call of conscience which I dare not disobey even though it may cost whatever reputation for sanity I may possess. So far as I can see now my discharge from imprisonment would not make the *duty* of fasting any the less imperative."

Thus Mahatma Gandhi stated his reasons of self-destruction . . . reasons which he associates with moral duty<sup>29</sup> but which may with equal validity be related to the natural right to kill oneself.

But it was not simply here that he stopped. He further notified it to Sir Samuel that his very being was revolting against the way in which repression was being carried on, and he did not know when he may receive a 'shock' (this reminds us of Bosanquet) that may force him to undertake a similar fast. His objections again are based not so much on political as on moral and humanitarian considerations. Thus he recounts:

Mahatma's another letter.

- (1) Repression is going on beyond legitimate limits, and Government terrorism is spreading throughout the land.
- (2) Both English and Indian officials are being brutalised (the fact of importance here is the deformation of man ethically).
- (3) Specially are the Indian officials being demoralised by meritorious rewards for disloyalty to their own people and inhuman conduct towards their own kith and kin.
- (4) The people are being cowed down.
- (5) Free speech has been stifled.
- (6) Goondaism is being practised in the name of law and order.
- (7) Women stand in fear of their honour being violated.

<sup>29</sup> It is interesting to recall here and compare with these ideas of the Mahatma the starting point of Kant's Political Philosophy . . . that moral freedom is the right to will the *self-imposed categorical imperative of duty*.

How then, he asks, is all this to be stopped? Surely, not by suspending 'civil disobedience' which is a part of his being and an article of his faith, but by sacrificing 'himself even by fasting to a finish,' though the moment for such action has not yet come.

After this declaration of the Mahatma, the so-called 'Communal Award' was also published granting Separate Electorates to the

Depressed Classes and the Mahatma was forced to write another letter,<sup>30</sup> this time to the Premier, saying that 'I have to resist your decision with

my life' and the only way to do is by declaring perpetual fast unto death from food of any kind save water with or without salt and soda, and the fast would cease or will not be undertaken if the British Government revised their decision before or after September 20, 1932. He further made clear that *there was no other course left* for him and that the contemplated fast was but a due fulfilment of his scheme of life, for he regarded himself touchable by birth but untouchable by choice.

The publication of this correspondence not only stunned Indians, it astounded the world. Giving an explanation of his 'Fast' to

an American friend, the Mahatma put forth the view that it brought Swaraj nearer for he derived his politics from his religion, and religion to

him is one in essence, but it has many branches and if I, the Hindu branch, fail in my duty to the parent trunk, I am an unworthy follower of that one indivisible visible religion. According to this reasoning, my sacrifice promotes the deliverance of humanity from untouchability in every shape or form and, therefore, it serves all religious groups . . . Though apparently conceived to apply to a corner of this world, it is really intended to cover the whole world.<sup>31</sup>

In a statement to the Bombay Government the Mahatma further said, 'The fast which I am approaching was resolved upon in the name of God for His work and, as I believe,

in all humility, at His call . . . it is intended to sting the Hindu conscience into right religious

<sup>30</sup> 'The Leader,' September 14, 1932 (Letter of August 18).

<sup>31</sup> 'The Leader,' September 25, 1932, p. 9.

action . . . The contemplated fast is no appeal to mere emotion. By fast I want to throw the whole of my weight (such as it is) in the scales of justice, pure and simple. Therefore, there need to be no undue haste in feverish anxiety to save my life . . . If Hindu mass mind is not yet prepared to banish untouchability, root and branch, it must sacrifice me without the slightest hesitation.<sup>32</sup>

Poet Tagore regarded this as supreme self-sacrifice, and addressing a meeting on the 64th birthday of the Mahatma at Poona

said,<sup>33</sup> 'His inspiration is actively at work all through India and even beyond its boundaries; it has awakened our consciousness to truth which goes far beyond the limits of our self-interest. His life itself is a constant call to us to emancipation in service and self-dedication. To-day is the day of our national acknowledgment of Mahatmaji as the great brother who in the present age is the central bond of our brotherhood in our Motherland.' He further added, 'The epithet (Mahatma) is rightly given to a man of God whom we are honouring to-day, for his dwelling is not within the narrow enclosure of individual consciousness. His dwelling is in the hearts of the untold multitudes who are born to-day in India and who are yet to come and this greatness of his soul which has power to comprehend other souls has made possible what never yet happened in our history when even the masses have been roused to the great fact that India is not merely a geographical entity but is a living truth in which they live, move and have their being. To-day in our determined effort to join Mahatmaji in his noble task of removing the burden of the ages, the burden of disrespect upon the bent back of those who had been stigmatized for the accident of their birth, the sin of wilful denial to a large body of our country men of the sympathy which is the birth right of all human beings, . . . we are not only casting off the chain of India's moral enslavement but indicating a path for all humanity. We are challenging victimization wherever and in whatever form it may exist, to stand the test of relentless questioning of

<sup>32</sup> 'Ibid., September 23, 1932, p. 9.

<sup>33</sup> 'Ibid., September 29, 1932.



conscience which Mahatmaji brought to bear upon our day.' He further observed, 'Great has been the achievement due to his penance, but it will be a greater glory to him and us if we can fulfil his vow by fighting to a finish the evils of untouchability, intolerance of all that hinders comradeship of man and man and obstructs our path to freedom and righteousness.'

I have quoted these passages at great length to show the reasons which, in the opinion of Mahatma Gandhi and Tagore, are sufficient for an individual to take his own life. For purposes of clarity, we may summarize them thus:

(1) That the cause for which he is going to lay down his life is one which is in the interest of his community or the humanity at large, that is, it is in the pursuit of some of the cherished ideals of humanity, *viz.*, truth, justice, comradeship of man and man, freedom and righteousness and love for fellowmen

**Bases of taking one's life.**

(2) That the cause is one of penance and 'no penance the caste Hindus may do can in any way compensate for the calculated degradation to which they have consigned the depressed classes for centuries.' 'It is predominantly a religious matter.'<sup>34</sup> Fasting for light and penance is a hoary institution. I have observed it in Christianity and Islam.<sup>35</sup> Hinduism is replete with instances of fast-

"Here Mahatma Gandhi has raised the contemporary issue of the rights of associations like the church. The state therefore has no right to interfere in a matter which concerns the church for the latter also has a life of its own, a life independent of the existence of the state.

<sup>34</sup> Fasting for self-purification and self-development no doubt is an institution of all religions, but fasting to death, I think, of none except perhaps of Jainism which allows such an action only under certain circumstances. Self-purification does not mean self-destruction. Islam is definitely against such a fast for even in our ordinary 'fasts of Ramadhan' it is allowed that those who are ill and incapable of bearing the strain of fasting may not fast. This means that fasting is meant not to destroy the health of an individual: in fact, it is a means to reinvigorate it. How, then, can Islam allow fasting to death of healthy individuals? Further, the Holy Quran tells us that the Prophet used to feel very greatly the tenacity of Jews and Christians on their own doctrines which, from the Muslim point of view, were false. On this, the Prophet was warned by God in these words: 'Will thou kill thyself in their grief?' This further shows the attitude of Islam on the right to kill oneself. Christianity too seems to be against it and Ritchie mentions that Christian churches have always universally condemned it (suicide) in *all circumstances*. At the most

ing for purification and penance. But it is a privilege: it is also a duty. Moreover, to the best of my light, I have reduced it to a science' . . . (The Mahatma).

(3) That his position is such that it has been acknowledged by his community as really great and outstanding and that therefore he considers himself worthy of that act or service. As regards this there can be no two opinions as the Mahatma himself has said. 'I have been interested in the conditions of these classes from my boyhood and have more than once staked my all for their sake; and now life itself is the last thing in their service.' Further, he says, the question is specially 'my own by the reason of the life-long concentration on it. It is a sacred personal trust which I may not shirk.' for he is touchable only *by birth*: he is untouchable *by choice*. By virtue of this position which he has acquired by dint of service, he has a right to 'sting' the conscience of his community. 'My fast' he says, 'I want to throw in the scales of justice and if it wakes up caste Hindus from their slumber and if they are roused to a sense of their duty, it will have served its purpose.'

(4) That his instructed judgment or inner conscience suggests no other method except this, for every other means has been tried and no other course has been left. On this we cannot say much against the Mahatma for, in the first place, he was in jail, and secondly, he had done all he could from within the jail walls by writing letters to Sir Samuel and the Premier.

(5) That if he takes to this ultimate measure, he should not simply be sure of achieving success in his mission: he should also see if his action would not make the condition of the community worse and that it would not merely prove a temporary outburst of sentiment and emotion without any permanent effect. In this precaution also we do not find the Mahatma lagging behind for he asserts that 'the very best in humanity would come to my help' for 'this fast is based on faith, first of all in the cause, faith in Hindu community, faith in the human nature itself and faith even in the official world.'

however, suicide is excused but not approved (D. G. Ritchie, *Natural Rights*, p. 125). Fasting to death, therefore, seems to be the Mahatma's own invention which he now claims to have reduced to a science.

(6) That if he did not take this up, the work of other reformers would suffer.<sup>30</sup>

These, then, are the conditions which according to the Mahatma an individual must fulfil if he wants to take his life. But we must

remember that these criteria are not always absolute: they are relative to time, occasion and other conditions. For instance, there is a man

These conditions are relative.

whom another individual is seeing struggling with the waves in a river. If the man who is witnessing the struggle does not know swimming he can claim no right to endanger his own life in spite of the best of intentions and efforts on his part to save the drowning man's life; but if he is a good swimmer, it is not simply his moral duty to save the life of a fellowman: it is his natural right to endanger his own, if he considers the service of a fellowman as the highest virtue. In this sense, Col. Suharwardy acted with the best of ideals to endanger his own life when he tried to save (and in the end saved) the life of another fellowman, in this case. His Excellency Sir Francis Stanley Jackson, the then Governor of Bengal, when the latter was on the point of being fired upon by a woman student at the Convocation of the Calcutta University.

**S o m e   q u e s -** In the case of the Mahatma's action, however, tions: certain questions arise.

In the first place, such a radical action on the part of a great man may lead to sympathetic fasts and it did result in many such fasts. *Is not, then, such a doctrine highly dangerous for the very existence of a society?* It is true that the Mahatma discouraged all such fasts by others, for they could be undertaken only by 'experts' like himself, and yet, in spite of this, they were undertaken by men of no significance. Even the Mahatma himself later on seemed to ignore the sanctity attached to it for he himself undertook another

<sup>30</sup> This statement can only mean that the cause of the down trodden must be taken up by him, and he has a right to take that up, for he wants to carry forward the work of other (Hindu) reformers who had tried to raise the depressed classes from social degradation. The extreme measure on his part was required by the urgency of the situation, for the 'Communal Award' of the Premier was any day expected and he did not want the division of the Hindu community in political life also as it meant to him the perpetuation of the already existing social division.

fast 'in sympathy with a dear comrade'<sup>27</sup> and then resorted to several others, thus making an 'extreme medicine' his 'daily bread.'

Secondly, 'fasting to death' of such a great man *is an uncalled for loss to the community and to the humanity at large*. If reformers took to such methods, the work of reform would suffer rather than get an impetus as the Mahatma seems to think. The personal charm and influence of a personality like his would be far more useful to the community's reform than its absence.

Thirdly, the whole spirit of 'fasting to death' discloses what we call a 'defeatist' mentality which both religion and morality abhor. It is but a suicide in another form, for those who take to suicide take to it as a last measure of despair. In Mahatma Gandhi's own terminology of non-violence, fasting to death is nothing but *non-violent suicide*. Further, to him, non-violence is always the weapon of the strong, and he must certainly be a 'strong man' who decides to take his life, not in the sense of cutting asunder his existence by a revolver shot; but by slow degrees of painful, dragging withering away in a month or two!

Besides these general arguments against the Mahatma, the history of political theory also goes against him. Thus Locke clearly denies the right to kill oneself. Says he, "Though **M a h a t m a** man in that state has an uncontrollable liberty to **Gandhi and** dispose of his person or possessions, yet he has **History of Poli-** not liberty to destroy himself or so much as any, creature in his possession, but *where some nobler use than its bare preservation calls for it*."<sup>28</sup> The Mahatma can well mark the qualification of Locke, but his existence would in no sense be a mere bare existence: he is a recognised useful individual, both to India and

<sup>27</sup> Kelappan, in Southern India, wanted certain temples to be opened to depressed classes and therefore resorted to such a fast. Since then until now so many 'such fasts' have been undertaken that the whole thing now looks revolting, for we feel that this sort of moral coercion should not be made a plaything of every body. The last in the series is the fast of Pandit Ram Chandra Sharma who had been fasting as a protest against animal sacrifice at Kalighat temple and which he broke on the fortieth-day (October 8, 1936) on the intervention of Pandit M. M. Malaviya and others. Who knows how many more may yet come in the future?

<sup>28</sup> Locke: Second Treatise on Civil Government, Ch. II.

humanity. Further, his fast, as he claims, is in no sense *absolutely right*: it might have been relatively right as an act of cruel necessity. In Green's terminology, it was *a wrong done to right another wrong*. Similarly, Ritchie also does not view such an action with favour when he says 'It must be the society and not the individual that ought to judge. Individuals who may feel their life a burden to themselves may still be capable of some social service, and if *they were occupied in doing such service, would most probably feel their life less of a burden.*' Mahatma Gandhi at least cannot answer this argument. He never felt his life a burden: on the contrary, every minute of his life has been spent in social service. Does he think then that his life, which is such a valuable life from the point of view of society, should be wasted away in such a fashion? But the Mahatma does not himself take it in that light. To him death in the cause for which he had fasted would have been a penance for the wrongs done by his community. Self-sacrifice to him is self-destruction and this is self-realisation. Thus from the standpoint of an individual, the Mahatma seems to regard his fast as '*a self-regarding action,*' an action of self-perfection in which the society has no hand; from the social point of view, he seems to claim it as his natural right, for to him that remains the only means of stinging the conscience of his community. The former viewpoint is obviously wrong, while the latter, though correct, was undesirable, for the whole of his community (we may leave away the world at large) when it came to know of his decision, was stirred to its very depths and did its best to save his life. His subsequent fasts, therefore, were not simply hasty and unnecessary, they were irrational and illogical. For how could he expect that the age-long customs and traditions should vanish in the twinkling of the eye.<sup>39</sup> He wanted

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<sup>39</sup> It would amuse my readers, after four years of the Mahatma's Fast, to see what he writes in connection with the publication by Rao Bahadur Rajah of the correspondence between himself and Dr. Moonje. The passage to which I am calling attention runs thus:—

"He (Dr. Ambedkar) has every right to be impatient. But prejudices and superstitions centuries old do not die in a moment. No one who has at all cared to study the reform movement will deny that every attempt humanly possible has been and is being made to bring home to the Savarna Hindus the message of the anti-untouchability movement." (*Vide "The Leader," August 27, 1936.*)

things to have been accomplished at once, as if by magic, forgetting totally that the caste system had become the very being (rightly or wrongly) of the Hindu community. Was it, then, so very easy to eradicate it all at once, and did not his community rise to the occasion to meet his demands? The conscience of the Hindu community had been stung and they had been roused from their deep slumber. What more did the Mahatma desire when he undertook subsequent fasts? They were thoroughly unjustifiable and in fact created resentment in the minds of people, for such a valuable life was becoming a prey to the peculiar whims of an individual. The best way to eradicate the evil was propaganda, and even the Government was not slow in permitting him to carry it from jail. Were then those, who did not know the Mahatma well or could not appreciate his religious psychology, wrong if they interpreted his actions as those of an "unsuccessful patriot who kills himself to avoid dragging out a dishonoured existence or in despair at the failure of the cause to which he had devoted his life."

But while Locke, Green and Ritchie thus go against the Fast of the Mahatma, in contemporary times, Laski seems to favour such an independent action. He believes in the 'instructed judgment' of the individual and takes a 'creative'

Laski. view of his acts, and goes even so far that if the individual is convinced of the fact that his action will result in the betterment of society, he has a right to do it even though he may be in a minority of one against the whole. In the Mahatma's case also, every one disfavoured such an action, but the Mahatma himself was convinced of its usefulness. So Laski would seem to endorse the view that in self-destruction also the individual would create and might point out, as illustration, the *creative fury* which issued as a result of the Mahatma's 'bombshell' on society, and the work that is being done from that time for the amelioration of the depressed classes.

After discussing the right to kill oneself we now proceed to consider if the individual can take the life of others. We had already occasion to remark that every being has an

2. Can the individual take the life of others. instinct of self preservation, and self preservation in the sense of a mere maintenance of existence

may mean that man, if he does not find other things, has a right to kill other human beings provided that he has the power to do so, that is, cannibalism is justified only on the basis of physical power, not right for right involves relationship of man to man. Thus an institution like Cannibalism might have been possible in a state of Nature of Hobbes, but it is impossible in a society of human beings, and Hobbes' state of Nature was nothing but a society of brutes. In the words of Kant, man is an end in himself because he has a personality of his own. He can never be a means to the purposes of another man. Locke has emphatically denied the right of killing others for the Law of Nature asks every man not simply to preserve himself, but also the rest of mankind.

Self-preservation, then, can only mean defending oneself against the aggressions of others. In self-defence, if the life of another man

is lost, then the individual has committed no social wrong, or at most, as Green would like to say, he has forcibly done a wrong to right another wrong. The society in that case would take no action against him; but if in the act of self defence he is killed by the aggressor, the society will haul up the criminal as it has become the poorer because of the loss of one personality.

Thus the only criterion on the basis of which the individual can take the life of others is the *social good*. No personal element,

except perhaps self defence in the event of an uncalled for aggression, can justify such action.

If several individuals have together murdered a wealthy individual because of his wealth or because of enmity, two courses are open to an average citizen, and he can adopt either according as circumstances dictate or the character of the murderers justifies. If he finds that the murderers are dacoits and he has no time to inform the society (*i.e.*, the police) he can himself, in the name of humanity and social welfare shoot them down; and if they are ordinary citizens and not such hardened criminals, then the best thing would be not to kill them by himself, but to inform the society as to the reality of the affair. We can thus see that the right to kill others can only be exercised sparingly and that too in the interest of the society itself.

We now take up the last question . . . can the society take the life of individuals? In the foregoing pages we have seen how

**Can the society take the life of individuals?** society is always prior to the individual and how his rights and duties are based upon the question of social recognition. Thus so far as the Right to Life is concerned, society would guarantee it, as Ritchie tells us, only to those who are *useful* to it, but not to those who are *injurious to its very existence*. Hence capital punishment . . . execution or hanging to death, is justified on this basis, for it has been realised that the criminal is *beyond reform* or the interest of the society urgently demands his early extinction. But occasions may also arise where the question of guilt does not come in and the society is forced to sacrifice many a life for *its very existence*. In the case of a war which has been forced upon it, it may demand its soldiers or citizens to lay down their lives for the common good, and it is their *duty* to do that. But in a war of aggression by the society itself, every member of that society who feels it unrighteous to take part in it, has a *natural right*, if not legal, to refuse service and take the consequences. Green, however, regards all war an attribute of the imperfection of the state and society and even a defensive war to him is *relatively right*, not absolutely right for it is a wrong to right another wrong.

In contemporary times, in this connection, several questions of significance are demanding our attention. In the first place, there is the problem of the 'Conscientious Objector'

**In contemporary times:**

who wants to refuse service because he regards all wars, defensive or offensive, as immoral. He thus comes in conflict with the omnipotent state which demands absolute obedience and has promulgated a universal law of conscription. Should then such an individual be treated as a traitor? The answer

The conscientious objector.

of course is a difficult one. On the one hand, his community has taken the desperate step of creating a 'nation in arms' because of an overhanging danger; on the other, he has taken his stand upon the highest of ideals, the sanctity of life of the human race and therefore its unity and brotherhood. The best thing for the community seems to be that it should leave such an individual (or a minority of such



individuals) unpunished, for punishment *may create a conflict within*; but if it decides punishment, the individual has *an equal right to suffer* and he should bear it all calmly. Secondly, our society to-

2. The individual and various associations. day has come to be federal in character and an individual may be more interested in the association to which he belongs than the state with which

he is only indirectly concerned. How then can the state compulsorily demand life of him who does not consider it very necessary for its purposes. This is specially true of international associations. Besides, the churches which have been international in character for centuries, we have now international economic syndicates whose branches are to be found in many states. A war would thus give a set back, perhaps it may bring to a stand still all their business. How can they then support war which goes antagonistic to their interests? This is a problem to solve which there are many schemes already afloat and we have yet to see how the contemporary state meets it.

We may now turn to another important issue which has been raised by the 'Fast' of Mahatma Gandhi. We have considered the right of the society to take the life of its members.

**Has the society a right to save the life of its benefactor.** We have now to see if the society has any right to save the life of one who, for its sake, in all sincerity, is laying down his life. In other words,

has the society any right to maintain the life of its greatest benefactor when that life is in the danger of being lost in its own service? Our answer is: it has every right to save that valuable life and should, therefore, try, *as far as possible, to bring about at least the beginning of those conditions* which he is demanding in its own interest, and should then assure him of *its continuous effort in their consummation*. But if he still wants to leave the community the poorer because of his 'Zid' in achieving *the whole at once*, then, as it is impossible to bring a new heaven and earth in a day or two, two courses are open to the community—(1) either it should allow the individual to die and should satisfy itself by saying that if he would have died naturally, it could have done nothing except mourn his loss, (2) or it may try to take the bold action of '*forced feeding*,' however derogatory to his honour, and try to convince him of the

unwisdom of his action. If he pleads that life without the realisation of his 'ideals' would be a 'living death' for him and therefore a constant agony, the community should also emphasise that his removal from its midst would also be nothing but the 'dying life' or the 'life of the tomb.'

(c) *The Right to Liberty:*

The second great natural right of the individual, after the right to life, is the right to liberty. In our discussion of the right to life, we have simply stated that man's life is sacred and therefore cannot be wrecklessly destroyed, that is, we have merely pleaded for the bare existence of an individual. But man's life does not mean living like other animals . . . to eat, drink and be merry. It means something more. As Aristotle said, man has not simply to live, but live well. He has a moral vocation to perform or do his duty in the social life. His life therefore is to be a moral life, a virtuous life. This means that the right of bare existence is associated with certain other equally important claims without which life can never be worth living. It is these other claims which we call the rights to liberty and property for without a certain freedom and the acquisition of some things we cannot make our existence worth living. But what is to be the extent of that freedom and what are the limits of these means by which we can make our bare preservation a useful and moral existence? These are questions which we will now attempt to answer. In this chapter, we will only discuss the real meaning of the right to liberty.

We have seen how in the state of Nature of Hobbes every individual possessed an 'unrestrained' use of his powers. The result of this 'absence of restraint' was a war of each against all and a consequent fear of impending death every minute. This means that the very existence of man was in jeopardy for nothing but anarchy reigned supreme. Hence the unlimited freedom of the state of Nature was not liberty: it was license, for it cut at the very root of human life itself. In this way, unrestrained freedom comes to be the very

negation of freedom. It becomes immoral not simply because it results in conflict, but because it makes life itself a 'living death.' Hence unlimited freedom can have no meaning in human society which is based on the idea of relationship of man to man. *True freedom, therefore, is limited freedom*, a freedom which sets forth the law that where the liberty of one ends, another man's begins. Thus in human society the freedom of each individual is limited by the equal freedom of others, otherwise life itself would be impossible. Moral freedom, therefore, is the essential quality of human life and it is this moral freedom which ought to be guaranteed to each individual by the society. *The right to liberty thus is a claim on the part of an individual to so use his potentialities that his use of them is not adversely affecting the similar use by others of their potentialities.* Every personality in society has capacities and it should have full opportunity to use them in and along with the common good. It should not only have no unnecessary restraint on its person, but also on its action and movements. Liberty thus involves certain 'fundamentals' which ought to be guaranteed to each personality, for its self realisation along with the whole society depends unmistakably upon them.

The Libertarian League<sup>40</sup> has well set forth these Libertarian Principles along with the Law of Equal Freedom which to them reads thus: "Since life itself contains the impulse of physical growth and the development of faculties and therefore needs room and freedom to function, and since liberty is necessary to the exercise of faculties; and since the exercise of faculties is essential to happiness; therefore, to attain happiness one must have liberty. And since liberty, being essential to the individual, is also necessary to the race; and since this necessitates limiting the liberty of each to the like liberty of all, we therefore arrive at the sociological law of Equal Freedom.' And the most important<sup>41</sup> principles involved in this law may be set forth thus:

**Libertarian Principles.**

(1) Freedom of thought is essential to the discovery of truth.

<sup>40</sup> C. T. Sprading: Freedom (Preface), pp. 9-10.

<sup>41</sup> C. T. Sprading has given a big list, but I have reproduced here only those which we have come to regard as *the most significant* for human life.

- (2) Freedom of speech is essential to the vindication of truth.
- (3) Freedom of Press is requisite for the dissemination of knowledge.
- (4) Freedom of assembly is essential for the discussion of public questions.
- (5) Freedom of religion is essential for adopting and professing religious opinions and for worshipping according to the dictates of conscience.
- (6) Freedom of initiative and association is necessary for efficiency and economy in individual or co-operative enterprise.

Besides the Libertarian League, Hobhouse has also set forth the different kinds of liberties that fall within the general conception of

**Hobhouse and liberties.**

Liberty.<sup>42</sup> Thus he mentions the following (besides others) as the fundamental principles of English Liberalism . . . civil or juristic liberty, personal liberty, social liberty, economic liberty, domestic liberty and political liberty. Out of these, we will only discuss those which we have come to regard as extremely essential for social life.

To begin with Personal Liberty. It means that so far as an individual personality is concerned it should have no unnecessary

**Personal Liberty.**

restraint upon its body or mind.<sup>43</sup> On this basis, slavery ought to be condemned for it keeps the 'person' of man in bondage. Further, he should have liberty of thought. This does not mean that the individual be allowed to think whatever he likes, for no check can be placed on man's thinking: it means that he should be able to communicate his thoughts to others, thus involving what we call freedom of speech, of discussion, of association, of writing and printing and of forming religious opinion. Freedom of thought thus comes to be as one of the most cherished rights of humanity, for life worth living can-

<sup>42</sup> L. T. Hobhouse: *Liberalism*.

<sup>43</sup> D. G. Ritchie in 'Natural Rights' on p. 148 says 'In the life of man we very commonly distinguish three main forms in which his natural powers can be exercised—thought, speech and action.'

not be lived without this great privilege, as Ritchie says "to think what may not be uttered becomes a torture which eats away the soul. And the intellect which is shut up in its own dark chamber tends to pine away and perish missing alike the fresh air of controversy and the sunshine of human sympathy."<sup>44</sup> Thus Mill

J. S. Mill's  
view.

having dealt with the necessity of the mental well being of mankind (on which all their other well being depends) states four distinct grounds for the freedom of thought, *viz.*<sup>45</sup>

- (1) If any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true. To deny this is to assume our own infallibility.
- (2) Though the silenced opinion be an error, it may and very commonly does, contain a portion of truth, and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.
- (3) Even if the received opinion be not only true but the whole truth, unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of prejudice with little comprehension or feeling of its rational grounds.
- (4) And not only this, but the meaning of the doctrine itself will be in danger of being lost or enfeebled and deprived of its vital effect on the character and conduct: the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heart-felt conviction, from reason or personal experience.

<sup>44</sup> D. G. Ritchie: *Natural Rights*, p. 148.

<sup>45</sup> J. S. Mill: *Utilitarianism Liberty and Representative Government* (Home University Library Series), pp. 111-112.

Thus the greatest plea for freedom of thought rests on the discovery of truth which is one of the most important elements in the self realisation of personality in accordance with common good. It is not 'thought' that is really dangerous for a community: it is the lack of it, and a free and independent thinker is always its most valuable asset. Free thinking, therefore, is necessary to the discovery of truth and free expression to its dissemination.

Social liberty means, that in social life, every personality should have an equal opportunity to develop itself along with others.

There should be no unnecessary social restraint upon an individual. The Caste System, in India, therefore is an attack upon the social liberty of

**2. Social Liberty.** individuals for they cannot take up occupations according to capacity. Untouchability<sup>46</sup> is but the greatest nuisance against social liberty for it even denies the worth of human personality. Class system is another evil of the same type. When we require certificates of 'respectability' for our provincial and central services, we divide society into respectables, and unrespectables as if those who are not in the privileged position, have no self respect or are unworthy of respect. The very basis of this division goes against all ideas of the worth of human personality, for it makes superiority

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<sup>46</sup> The Proclamation of His Highness the Maharaja of Travancore (issued on the night of November 12, 1936) in throwing open all temples under Government control to Harijans will ever be regarded as one of the historic events in the freedom of man from social tyranny, and as such may prove a stepping stone in the realization of social liberty in this country. (*Vide* 'The Leader,' November 18, 1936.) The real wording of this Memorable Document I reproduce below for the interest of all well wishers of down trodden humanity: Thus runs this Great Declaration:

"Profoundly convinced of the truth and validity of our religion, believing that it is based on divine guidance and an all-comprehending toleration, knowing that in its practice it has throughout the centuries adapted itself to the need of changing times, solicitous that none of our Hindu subjects should, by reason of birth, caste or community, be denied the consolation and solace of the Hindu Faith, we have decided and hereby declare, ordain and command that, subject to such rules and conditions as may be laid down and imposed by us for preserving their proper atmosphere and maintaining their rituals and observances, there should be no restriction placed on any Hindu by birth or religion on entering or worshipping at the temples controlled by us and our Government." (From 'The Hindustan Times,' December 27, 1936.)

and inferiority complexes as the ground work of life. Purdah<sup>47</sup> as in India is another attack on the social liberty of the 'better half' of human beings.

Civil liberty means that in a state all citizens should be equally

"The question of Purdah has already roused an interesting controversy in our country, for the Hindus contend that it is a legacy of Muslim rule in India, while the Muslims try to show, by citations from the Ancient Books of the Hindus, that it was already prevalent in Ancient India, and this contention of theirs has been further strengthened by Mr. N. C. Mehta's articles published in Indian press several years ago. To me, however, the question is not at all religious: it is definitely sociological, for, Purdah as it obtains in India, is the peculiar product of Indian conditions. This unfortunate country because of its fertility and fabulous wealth has always been subject to inroads and invasions from the very ancient times and as such instability in political conditions has been the rule rather than the exception. This explains why wealth in India was usually buried underground. But it is not money simply that man values most. He equally values his life and his womenfolk. The former, in times of war, he can sacrifice by fighting out, but the latter he cannot even bury underground, and yet all honour is associated with them for they are his mother, wife, sister and daughter. Thus valiant people like the Rajputs decided on the well known practice of 'Jauhar,' but all people could not take to such extreme measures. Hence they began to keep women within the four walls, and would never allow them to go out on the roads even, for the conquerors more often settled in the conquered land and thus began to live with the conquered. The soldiery of the conquerors usually came without wives and hence after settlement they snatched wives from wherever they chose. This explains the great rigidity with which the Purdah system was kept up in this country. But it was not simply the conquered who because of these depredations wanted to save their honour in this way. The conquerors themselves had two reasons to keep their women in Purdah. In the first place, their leaders who had brought their women with them would not naturally allow them to move about in a country in which conditions are unsettled and any day the conquered might take to retaliatory measures. And, secondly, those of them who had forcibly got their wives through night depredations would without doubt keep them strictly within the four walls so that the relations of the captured women might not know their whereabouts. Thus, in these ways, both the conquerors and the conquered were forced by dint of circumstances to keep their women in Purdah which in course of generations became a well established custom.

In our own times, because of comparative quiet and the blessings of peace under British administration, the necessity of Purdah is gradually declining and the education of our girls is further giving impetus to this social liberty of women. The coming in of the Hindu-Muslim riots, however, is again making the security of the road doubtful, but as this is a passing phase, it would not prove a permanent block in the way of the liberty of women. Another reason which has made possible the coming out of modern woman is the discarding of the 'ornaments,' for in olden times our women wore costly ornaments and hence were more subject to depredation on the road than they are to-day.

treated before the law. Laws should not be arbitrary and in the interest of one or a few only. There should always be 'a rule of law' but not 'a rule of men.'

### **Civil Liberty.**

They should not guarantee privilege and should not take account of privilege. Rich and poor ought to be equals before the law.

Political liberty means that so far as the life of the individual within a state is concerned he should have an equal opportunity to influence the policy of his government. Every citizen certainly should have an equal civil right,

### **o. Political Liberty.**

that is, a claim of equality before the law; he should also have an equal political right, that is, to take part in the political affairs of his community *if he is worthy of it*. Universal suffrage is claimed on this basis. In this sense, it remains not simply *a privilege*, but becomes *a duty*. But the term 'political liberty' is more significantly used for the liberty of communities rather than that of individuals, and in that sense, it has come to acquire a double meaning. In the first place, political liberty has come to be associated with '*complete independence*.' When America became independent of Britain, it achieved political liberty. Secondly, it has also come to include what we call 'Constitutional liberty.' The Revolution of 1688 gave England political liberty against the tyranny of the Stuart Kings, but it was constitutional liberty, that is, the so-called responsible government was established. Similarly, the Durham Report inaugurated an era of Constitutional liberty in Canada.

Associated with the question of political liberty is the doctrine of 'the right to resistance,' for tyranny has always forced men to seek

### **Rights to Resistance— Hobbes and Locke.**

liberty. In modern times, the Anti-monarchists of the 16th century were the first to emphasise it, so much so, that a tyrant could even be killed.

Hobbes did not allow any revolution, for in the first place, the king was not a party to the contract and secondly, it meant a return to the state of nature which was a state of war. But if the king failed to keep the peace for which the contract was made, and the life of man was in constant danger, then Hobbes too, much against his will, was forced to admit such a right. Locke, however, was a thorough individualist. To him, if the king failed to



carry out the 'trust,' and the rights to life, liberty and property were in danger, the individual had a right to rebel and institute another governor.

But it was Green who took up this question in all seriousness and discussed it on high moral principles. To him it was not a plaything for the individual to rebel and resist.

**T. H. Green.**

It was a matter of great responsibility. He therefore lays down certain conditions the fulfilment of which *may* justify resistance. Thus:

- (1) He must, first of all, see if the present condition can in any way *be easily changed or reformed*, that is, he must make sure whether all the methods of persuasion, and argument have been tried and found wanting.
- (2) Even if such peaceful methods have brought forth no result, he must be sure, firstly, if the existing condition is so very intolerable that it is better to risk chaos than live under it, and secondly, the cause for which he is resisting is such that it even warrants the causing of chaos.
- (3) He must also take the sense of the community about it; if it does not favour it, he should not hastily precipitate a crisis: he should take to the propagation of his views. But even if the community endorses his viewpoint, the revolution *may be justifiable*, but it is *not obligatory*.

Thus Green preaches caution and nothing but caution. Following him Ritchie has also enunciated similar principle, *viz.:*

**Ritchie:**

- (1) The individual must see if there is a *reasonable chance of success*, that is, not merely the overthrow and the destruction of the present regime ought to be the goal, but there should be a surety, or at least, the possibility of its substitution by something better and a hope of its stability.

- (2) He must see if all peaceful and constitutional means of reform have been tried in vain or the governors have made it impossible to have recourse to them.
- (3) He must be convinced that the evils under which the society is suffering are such that they are worse than the risk of disorder and bloodshed.

On the basis of these principles, we can truly lament the Afghan Revolution as led by Bacha Sakao, though fortunately for Afghans, the late King Nadir Shah proved a good substitute for king Amanullah:

It would be interesting also to examine on the basis of these principles the activities of Mahatma Gandhi in launching his campaigns of the Non-Co-operation Movement of 1920 and the Civil Disobedience Movement of 1930. Mahatma Gandhi and Green's and Ritchie's Principles. Green and Ritchie would have asked the Mahatma the following questions:

- (1) Is the condition of India under the present British Government such that it is better to risk chaos?
- (2) Have all the available methods been tried in vain that such direct action is being resorted to?
- (3) Is there any reasonable chance of success in a country of such huge dimensions, enormous ignorance, and social conflicts, besides the vast powers in the hands of Government, both in material resources and facilities of science?
- (4) Could you hope to construct a better system by demolishing the present one?
- (5) Have you taken the sense of your community in what you are going to do? Have you sufficiently resorted to propaganda in justifying your claim to resistance?

These are interesting questions to answer and we leave them to the readers to answer them for they refer to events not only of living memory, but of yesterday.

In contemporary times, however, the peculiar English caution of Green is not being heeded even by English writers. Thus Laski is one who does not talk in terms of 'may' or 'might,' but who talks in terms of 'most.' When **Contemporary times and Laski.** *all the conditions* had been satisfied, Green could only say that resistance or revolution *may be justified, but it is not obligatory*. Laski would say that it was no longer a question of a *right to resist*, but one of *our duty to rebel*. It was *obligatory* to do so. He does not even emphasise caution. To him the self-instructed judgment of the individual is enough; and even though he may be in a minority of one against the whole people, he ought to oppose and resist. It might be a doctrine of anarchy and, in fact, it is; but it does not matter, for the peace in which injustice and tyranny go unquestioned is unworthy of human existence.

#### (d) The Right to Property

After liberty, the right to property is another natural right which has often been claimed by individuals, for life worth living cannot be lived without *adequate means* for it. **The various points of view.** But *who* is to decide and *how* is it to be decided as to what are *adequate means* and what not?

On the basis of our definition of a right we may say that the right to property is a claim on the part of an individual to such means<sup>48</sup> for his life that by their use he is not only developing his personality, but he is also not in any way encroaching upon the similar claims and the similar use of others in the development of their personalities. Such claims therefore ought to be guaranteed by the society. But on what basis? This has ever remained an unsolved question in Political Science, and different thinkers have always suggested different solutions at all times. It is these various points of view from which the right to property has been approached and justified that we are going to deal in the following pages. Roscoe Pound<sup>49</sup> thus

<sup>48</sup>Vide T. H. Green: *Lectures on the Principles of Political Obligation*, p. xxii (contents), "In theory, every one who is capable of living for a common good (whether he actually does so or not) ought to have the means for so doing: *these means are property.*"

<sup>49</sup>R. Pound: *An Introduction to the Philosophy of Law*, pp. 204-235.

summarises them under the following heads. *viz.*: (1) The Natural Law theories; (2) The Metaphysical theories; (3) The Historical theories; (4) The Positive theories; (5) The Psychological theories; and (6) The Sociological theories.

The natural law theories are based either on the idea of occupation or on the creation through labour or both, and sometimes also

on the basis of human nature. Both occupation and labour as sources of property were very well recognized in Roman law.<sup>50</sup> In modern times,

Grotius and Pufendorf . . . based property not simply on discovery and occupation, but also on natural rights and contract.<sup>51</sup> It was, Locke, however, who gave the first comprehensive account of this right as based both on occupation and labour, specially the latter for, he holds, that it is by the mixing of one's labour that things become one's real property and they are recognized as such by compact and agreement.

But what is property according to Locke? This he makes clear in his Treatises when he has shown that the dangers and the insecurities of the state of nature force every man to quit that condition. Thus, in his own words,

**Locke's view.** every man "seeks out, and is willing to join in society with others, who are already united, to have a mind to unite, for the mutual preservation of their lives, liberties, and estates, which I call by general name of property."<sup>52</sup> Thus property in Locke means life and liberty and even the possessions of men. The rights to life and liberty we have already considered in the foregoing pages: we will now, therefore, consider property<sup>53</sup> in the narrow sense of 'possessions' only.

<sup>50</sup> This is to be remembered, as Pound points out that in Roman law there were certain things which could not be the subjects of private ownership. Such things were called *res extra commercium*. For details see R. Pound, 'An Introduction to the Philosophy of Law,' p. 197-198.

<sup>51</sup> In connection with the ideas of Grotius and Pufendorf (as also of Roman law) the words '*res communes*' and '*res nullius*' are usually used in all books of legal literature. *Res nullius* means things that belong to no body and *res communes* those that belong to all and hence cannot be privately owned by any body.

<sup>52</sup> Locke's *Two Treatises of Government* (Printed for Whitmore and Fenn, Charing Cross, London, Ch. IX, p. 295. Also p. 259, Art. 87 (Ch. VII).

<sup>53</sup> *Ibid.*, Ch. V, Property, pp. 208—229.

God has given the earth to all men in common and hence 'all the fruits it naturally produces, and beasts it feeds belong to mankind in common as they are produced by the spontaneous hand of nature; and no body has *Property* and *labour*, originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state.' But while all things are thus in common, every man is a perfect master of his own self, that is, 'every man has a property in his own person: this no body has any right to but himself.'<sup>54</sup> The *labour* of his body, and the *work* of his hands, we may say, are properly his. 'Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his 'property.' It being by him removed from the common state nature hath placed in it, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.'<sup>55</sup>

Thus Locke means to say that it is the labour of man that makes *res communis* his private property. in his own words, 'that labour put a distinction between them (acorns or apples) and common: that added something to them more than nature, the common mother of all, had done, and so they became his private right.'<sup>56</sup>

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<sup>54</sup> This makes it clear that Locke is thoroughly opposed to 'slavery' which even Aristotle justified on the basis of the superiority of the Greeks over all other peoples who were no more than barbarians and hence fit to be slaves. A Greek could never be a slave. St. Thomas Aquinas also justified slavery in the middle ages because it stimulated bravery, for no one would like to be made a slave, and would thus fight to the last to maintain his freedom. Locke also points out to the well known pride of Englishmen that a Briton can never be a slave in the very first line of his *Treatises* in these words: 'Slavery is so vile and miserable an estate of man, and so directly opposite to the generous temper and courage of our nation.' He then gives one full chapter (Chap. IV of 2nd *Treatise*) On Slavery.

<sup>55</sup> Locke's *Two Treatises*, pp. 209-10. (Wherever reference to Locke's *Treatises* occurs in these pages it means Whitmore and Fenn Edition.)

<sup>56</sup> Locke's *Two Treatises*, p. 210. Locke takes many examples in this chapter on 'Property' to show how the labour of one man when expended over a thing makes it his own as against the rest of mankind, e.g., he says,

If 'Labour' makes a thing one's own as against others, is it not theft<sup>57</sup> against all, (i.e., of common property), for all things were *res communis* and none could appropriate them without the common consent. Locke's answer is that 'if such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him,' for on how many things of use he would have taken the consent of every commoner?

But is there any limit to such appropriation of things out of the common stock? Can any one take as much as he likes because he has mixed his labour with them? Locke's answer is that there is a limit to everything. Things have been made by God for our enjoyment: not that we may spoil them and destroy them. Hence, as much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in:

Limit to appropriation.

- (i) If one has gathered apples from the trees in the wood, he has certainly appropriated them to himself: 'if the first gathering made them not his, nothing else could.' Thus first occupation or labour is the source of property.
- (ii) 'Though the water running in the fountain be every one's, yet who can doubt but that in the pitcher is his only who drew it out?'
- (iii) 'This original law of nature, for the beginning of property, in what was before common, still takes place: and by virtue thereof, what fish any one catches in the ocean, that great and still remaining common of mankind; or what ambergrease any one takes up here, is by the labour that removes it out of that common nature left it in, made his property, who takes that pains about it. And even amongst us, the hare that any one is hunting, is thought his who pursues her during the chase.'

<sup>57</sup> The sentence in the words of Locke runs thus: 'Was it a robbery thus to assume to himself what belonged to all in common?' Compare the spirit of this sentence with that of Rousseau when he said in lament that 'the first man who, having enclosed a piece of ground, bethought himself of saying This is mine, and found people simple enough to believe him, was the real founder of civil society. From how many crimes, wars and murders, from how many horrors and misfortunes might not any one have saved mankind, by pulling up the stakes, or filling up the ditch, and crying to his fellows, "Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all and the earth itself to no body."' (In this last sentence the student can well mark the difference between *res communes* and *res nullius*).

whatever is beyond this, is more than his share, and belongs to others.

Having stated these general principles regarding the things of the earth, the fruits and the beasts, Locke turns to earth itself, *i.e.*,

Property in land. to property in land and says, "I think it is plain, that property in that too is acquired as the former.

As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property.' It is not necessary that he should take the consent of others. God when he gave the world in common to man commanded him to labour<sup>68</sup> and 'he that in obedience to this command of God subdned, tilled and sowed any part of it, thereby annexed to it something that was his property, which another had no title to, nor could without injury take from him.' This appropriation was harmless to all because there was still enough, and as good left for others, if they wanted to mix their labour with it. On the other hand, this appropriation was positively good, for, as Locke maintains, 'he, who appropriates land to himself by his labour does not lessen, but increase the common stock of mankind:'<sup>69</sup> for the provisions serving to the support of human life, produced by one acre of enclosed and cultivated land, are ten times more than those which are yielded by an acre of land of an equal richness lying waste in common. And therefore he that encloses land, and has a greater plenty of the conveniences of life from ten acres than he could have from a hundred left to nature, may truly be said to give ninety acres to mankind.'

But the limits in the case of land are also the same as in the case of fruits and beasts. Just as they could not be needlessly spoiled and destroyed without offending the law of nature and committing a crime against one's neighbours; in the same way, an enclosed land if it lay waste was an infringement of the right of others and was a clear violation of the law of nature. Thus Locke can allow only as much land to

<sup>68</sup> Lock: Treatises. At another place (p. 214) he says, 'God gave the world to men in common. He gave it to the use of the industrious and the rational, not to the fancy or covetousness of the quarrelsome and contentious.' Thus property he bases upon two things: (i) Industry or labour, (ii) and rationality. The first makes the title to property, the second checks its abuse and destruction.

<sup>69</sup> Will Rousseau agree to these advantages? ,

every body as he could make use of. Beyond that he regards it a crime against all.<sup>60</sup>

Further, from these statements, he comes to the conclusion 'that the property of labour should be able to overbalance the community of land: for it is labour indeed that puts the Labour theory of difference of value on everything.' Thus the value. value of things is based on the labour spent on them. This conclusion is so significant in view of what we will read in Socialism that I am inclined to quote it in full, for it tells us how possibly Marx himself might have been influenced by Locke in his labour theory of value. Thus Locke goes on in these words: 'And let any one consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common, without any husbandry upon it, and he will find, that the improvement of labour makes the far greater part of the value. I think it will be but a very modest computation to say, that of the products of the earth useful to the life of man nine-tenths are *the effects of labour*, nay, if we rightly estimate things as they come to our use, and cast up the several expenses<sup>61</sup> about them, what in them is purely owing to nature, and what to labour, we shall find, that in most of them ninety-nine hundredths are wholly to be put on the account of labour.'<sup>62</sup>

To summarise, we may now say that labour originally gave a right to property and the several communities at different places settled the bounds of their distinct territories, and Summary. by laws within themselves regulated the properties of the private men of their society, and so, by compact and

<sup>60</sup> This makes it clear that Locke also goes against all Zemindari systems specially against absentee landlords. He would therefore criticise not simply Indian conditions, but would also go against English landlordism.

<sup>61</sup> In these words, e.g., from 'nay, if we rightly estimate' "to several expenses about them," we find Locke going out of the difficulty in which Marx fell. While Locke emphasises 'labour' ninety-nine percent, he does not forget that there can be other sources also in marking out the value of a thing; that is, he does not say that labour is the only and sole source of value.

<sup>62</sup> Locke's Treatises, pp. 221-222. See also pp. 223 and 224.



agreement, settled the property which labour and industry began.' Thus the right to property as natural right centred upon one's own labour,<sup>63</sup> but the legal right came into being only when the society recognised it.

Besides occupation and labour, the Natural Law theories have also been based, in modern times, upon the economic nature of man.

We might recall how, in ancient times, Plato emphasised the fact that the state grew up to satisfy human needs, specially the three initial wants of all individuals . . . food, clothing and shelter and how the working classes<sup>64</sup> in the state in fact represent the appetitive element of human soul, for, after all, the individual to him was the state in miniature. Similarly, Aristotle also explained the origin of society not simply on the psychological premise of 'man is a social being,' but also on the basis of the satisfaction of human wants, for

<sup>63</sup> Locke has also referred to the use of money, of gold and diamond in the exchange of different products so that men exchanged perishable things like corn and fruits to long lasting things like gold. Hence they began to hoard. Here we find a hint of the rise of the capitalist, though Locke does not go beyond what has been stated here.

<sup>64</sup> It is to be borne in mind that Plato does not allow 'private property' to all in his Republic. So far as the Guardians are concerned, they can neither have families nor property for both create dissension as men begin to talk and act in terms of mine and thine. He therefore allows private property only to the working classes but under the strict supervision of the state.

In his 'Laws,' however, Plato seems to be convinced of the impracticability of the Communism of the Republic. He therefore admits private property and wants the laws to promote equality of possessions, for a tranquil state could only exist if there was to be neither extreme poverty nor extreme wealth. The 'ownership by citizens of equal shares of land' was to be specially safeguarded and the commercial pursuits discouraged so that there must not be accumulation of wealth. But as the rise of inequality could not be completely checked, he assigns offices on wealth, and not on intellect as in the Republic. Here he provides four classes and they have been summarised by Dunning (in his Political Theories, Vol. I, p. 39) thus:

- (i) Those who possess only the equal allotment of land which the state guarantees to every citizen as the 'limit of poverty.' (Compare this with the civic minimum of Laski).
- (ii) The other three classes are determined by the possession of wealth to the amount of two, three, and four times the value of the share of land; and property accumulated by any citizen in excess of the fourfold measure is subject to summary confiscation by the government.

man by himself is not self-sufficient.<sup>65</sup> In modern times, the economic nature of man was emphasised by the school of Adam Smith which believed not simply in the self-satisfaction of wants<sup>66</sup> by every

<sup>65</sup> Aristotle, unlike the Plato of the Republic, favours Private Property as a necessary thing and therefore criticises his Communism. In Book II, Ch. V of his 'Politics,' he discusses the three possibilities of this distribution in land:

- (i) Common possession and common use;
- (ii) Private possession and common use; and
- (iii) Common possession and private use.

Out of these, he favours 'private possession and common use,' for common possession to him means common neglect, for a thing if it belongs to all belongs to none. Hence private property is not only a necessary stimulus to maximum production: it is the source of some of the fine traits of human character such as hospitality and liberality, etc. And it would be kept in check by proper customs and healthy legislation so that the individual may not become a centre in himself and thus defeat the very end of property, which, to Aristotle, is a 'sum of instruments' necessary and useful to the individual for promoting the best life and interests of the community. This ideal of "private property and common use" which Aristotle recommended we find later on influencing the medieval christian church. The medieval doctrine, in fact, regarded "common ownership as the original (and therefore the natural) as well as the ideal economic system; it accepted private ownership of property as an existing institution, resulting unhappily from man's avarice; but it accepted the institution subject to important conditions . . . namely, that the property, though privately owned, be used for the good of the community, or more specifically, that the rights of all members of the community to have their proper needs satisfied out of the abundance of the earth's produce be fully recognised." F. W. Coker 'Recent Political Thought, p. 36.

<sup>66</sup> *Vide* W. A. Dunning: History of Political Theories, Vol. III, pp. 59-60 on the Physiocratic Fundamentals . . . "Three species of property are included in the natural rights of every individual. First, the property of his person, which includes the right to use all his faculties, and hence the right to labour. Second, the movable property, which consists of the results of his labour. Third, landed property. All property is limited by the other properties surrounding it, as all liberty is limited by the other liberties. Society is organized to provide a mutual guarantee of these various individual properties."

In this connection, the oft quoted following passage from Adam Smith's 'Wealth of Nations' may be specially noted. Discussing the checks upon American manufacturers, he upheld that it was no function of government to determine how capitalists employed their resources and that it was 'the natural right of His Majesty's subjects to exercise what species of industry they pleased.' Thus the famous passage maintains that 'to prohibit a great people . . . from making all that they can of every part of their products, or from employing their stock and industry in the way that they judge most advantageous to themselves is a manifest violation of the most sacred rights of mankind.'

individual but also in the fact that the wealth acquired and accumulated by one individual meant not simply a personal gain but also a social gain, for ultimately the total wealth of the community to which he belonged had increased. Lastly, the Socialists have introduced what may easily be called 'a natural right of the labourer' in so far as their whole theory is based upon this premise of Karl Marx . . . that *labour is the sole source of value*<sup>67</sup> and, therefore, when the capitalist makes money out of the work of the labourers, he 'filches away' what in fact belongs to others. There are others, however, like the Anarchist communists who deny all private property and deduce 'a general regime of *res communes* or *res publicae*.'

The Metaphysical theories really begin in modern times with Kant. He also justifies property in the necessities of man, but takes a very different view from that of Locke in so far

The Metaphysical  
Theories of Prop-  
erty.

as labour as the source of property is concerned. To understand this, we may just see how Vaughan discusses Kant's conception. "Broadly speaking," says that writer,<sup>68</sup> "there are three views which it is possible to take of property. The right of property may be derived from the individual; or it may be derived from the community: or it may have no existence, save in custom and as the extremest form of wrong. The first view is that of the Roman jurists<sup>69</sup> and of civilized society as it has stood from the decay of Federal notions to the present day. The second view is that of Feudalism: it is the view also of Rousseau in the *Contract Social*. The third was the view familiar to Kant from the earlier treatise of Rousseau."<sup>70</sup>

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<sup>67</sup> For the sources of this premise of Karl Marx, see 'The Life and teaching of Karl Marx' by M. Beer, pp. 95—103 specially the remarks under 'surplus value' on p. 101 where it is stated that Ricardo was the first to expound it.

<sup>68</sup> C. E. Vaughan: *Studies in the History of Political Philosophy*, Vol. II, pp. 69-70.

<sup>69</sup> This is also the view of Locke (as we have seen in the previous pages).

<sup>70</sup> This refers to Rousseau's 'A Dissertation on the origin and Foundation of the inequality of mankind, Part II, p. 207 (Cole's edition of *Social Contract*), the opening words of which refer to the first enclosing of a piece of land, words which I have already quoted in this essay

Kant definitely rejects the third view, and he does not accept wholly any of the other two views. Thus he does not accept the individualistic interpretation of the right to property as based upon the individual . . . 'to enjoy

**Kant's view.** the *substance* of that on which he has spent his labour' . . . the Roman Jurists' doctrine of 'formation.' He thus goes against the whole theory of Locke as we have seen it in the preceding pages. His arguments are that a single act of labour by an individual over a thing might give him the *fruits* of that labour, but he cannot have the thing itself for all times, for how can he appropriate it to the exclusion of all others when nature had made everything common to all men?

Kant, therefore, accepts the right to property as derived from 'the abstract right of the individual to will and therefore to appropriate, any object so long as he does not either

Right to property, provisional and derived, by will or act, do any direct injury to his neighbour.<sup>71</sup> This right is both 'provisional' and 'derived.' It is provisional because it requires the consent of those who are interested in it and that consent can only be acquired when they have organized themselves into a state to establish the reign of Right. It is only then that this provisional claim can become a permanent right. It is derived because in no sense can a right originate in the individual himself for it presupposes the right of mankind. 'If he did not, in some sense, appropriate the fruits of the earth and its living creatures, he would inevitably be starved. The right, however, which necessity engenders is a right, not of the individual, but of mankind at large.'<sup>72</sup> It is a right of mankind as

<sup>71</sup> C. E. Vaughan: *Studies in the History of Political Philosophy*. Vol. II, p. 70.

<sup>72</sup> Kant's attitude against the state is grudging for he regards the individual as an end in himself. From the right of mankind he, therefore, at once descends to the right of the individual, ignoring of course the intermediate stage of the primitive community or the state. It would have been consistent for him not to do so, but this would have given far greater power to the state than he could allow. In fact, at one place, he does express himself in a way which seems quite foreign to his ideas. In the words of Vaughan, 'Kant insists that the sovereign is not only supreme magistrate, but also, and yet more essentially, 'Lord of the land, or more precisely supreme landowner' and that from him 'all right of individuals to property is ultimately derived.' (Vol. II, p. 73.)

against beasts and nature, not of one individual as against the rest . . . Thus the right of property is not originally the right of the individual as such, but of the race which he represents. It only becomes the right of the individual when the state of nature passes into the civil state, and when the community has given its express sanction to what was previously nothing more than a provisional appropriation by the individual.<sup>73</sup> Hence Kant's conception of right involves the following points:

In the first place, he recognises the right of mankind as the original right to all things of nature.

Secondly, as a corollary to this, every individual because he is a member of mankind has an abstract right of appropriation of things of nature. He has, therefore, this right against beasts and the fruits of the earth *in common with other men* (but *in no sense against them*, for every one of them has also got a similar right to appropriation).

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The above inconsistency of Kant has also been noted by Vaughan and he suggests what Kant ought to have written to be consistent to his ideas. (Vol. II, p. 72).

<sup>73</sup> C. E. Vaughan: *Studies in the History of Political Philosophy*, Vol. II, p. 71.

In this connection, it is necessary to see what Rousseau says about the right of occupation which we have seen in the cases of Locke and Kant. In his *Social Contract*, Book I, Ch. IX, he discusses this right:

"The right of the first occupier, though more real than the right of the strongest, becomes a real right only when the right of property has already been established. Every man has naturally a right to every thing he needs; but the positive act which makes him proprietor of one thing excludes him from everything else. Having his share he ought to keep to it and can have no further right against the community. This is why the right of the first occupier, which in the state of nature is so weak, claims the respect of every man in civil society. In this right we are respecting not so much what belongs to another as what does not belong to ourselves.

In general, to establish the right of the first occupier over a plot of ground, the following conditions are necessary: first, the land must not yet be inhabited; secondly, a man must occupy only the amount he needs for his subsistence; and in the third place, possession must be taken, not by an empty ceremony, but by labour and cultivation, the only sign of proprietorship that should be respected by others, in default of a legal title."

Thus to Rousseau, as he further tells us in another passage, the right to occupation is an act of 'usurpation' and it is the recognition of the community which changes it into a 'true right.'

Thirdly, this right remains only a temporary appropriation of things because the rest of his fellow beings have not yet given their consent to it. Hence as soon as they organize themselves in a civil society, this temporary possession passes into a permanent ownership. The state, therefore, for the first time, establishes a system of external *meum and tuum*, that is a system of mine and thine, for in the state of nature everything was common property: now, under the law, an individual can call the *society recognised* things as one's own. Thus in civil society not only others will abstain from interfering with his object: he would also keep aloof of those objects which others have made externally theirs.<sup>74</sup> In this way, therefore, Kant's theory of property comes to be based both on the idea of occupation and on contract, though the occupation is a 'derived' occupation, and contract a *tacit* consent of men.

After Kant, another Metaphysical writer of significance is Fichte, and his writings mark the transition between Kant and Hegel.

#### Fichte.

He begins with the individualism of the Social contract writers and ends with the complete omnipotence of the state so that each book of his represents a stage in the development of his thought.

Thus in the 'Beitrag' he is an individualist. Three definite agreements have been shown to be involved in the Social pact.

First, there is the '*property contract*.' Under the term 'property' he includes the whole sphere of the freedom of man and defines it as 'rights of free action in the world of sense.' It is the contract which fixes the exact boundary of the property of each associate.

Then, there is the '*protection contract*.' Under this each associate agrees to contribute his share of the force necessary for the protection of the 'divisions' involved in the first contract.

Thirdly, the *Social or the Union pact* by which each agrees with each to unite into a whole for the effective accomplishment of the ends involved in the prior contracts.<sup>75</sup>

<sup>74</sup> For the different stages in Kant's conception of right, R. Pound: *An Introduction to the Philosophy of Law*, pp. 212-213.

<sup>75</sup> W. A. Dunning in his '*A History of Political Theories*, Vol. III, (on p. 140) notes all these contracts.

Thus the right of property inheres in the individual, and the Society comes in only to protect that right.

In the *Grundlage*, however, all this respect for the rights of the individual has already begun to vanish away for he is presenting a

The *Grundlage*, 1796. scheme of Socialism, and it is strange that a man who stood for the extinction of the state should

make it all in all. As Vaughan puts it, 'To begin by depriving the individual of that freedom in the control of property which to most men is the sum and substance of the individual's 'rights.' is an unpromising method for the man whose ultimate aim is to sweep away the whole organisation of the state and enthrone the individual, subject only to the unquestioned sway of the moral laws, upon its ruins.'<sup>6</sup> Thus in the *Grundlage*, though property is still being regarded by Fichte as property in the soil, or to be more exact, in the fruits of the soil, he does not allow the holder of it to do whatever he likes with it. It cannot be allowed to lie waste, and if it is done so, it should be taken away by the state, for it is not serving the purpose for which it had been allowed to the individual. Further, property in the soil does not include its mineral wealth which in all cases belongs to the state unless granted by it as a separate grant. To be brief, the grant of property means that a 'certain definite activity' is the object of the contract of ownership or, in the words of Vaughan, 'there is no longer a sphere of *objects* that is assigned to the citizen for the exercise of his freedom, but a sphere of *activity*.'<sup>7</sup>

In another work the '*Handelstaat*' (which Vaughan calls little more than an 'appendix' to *Grundlage*) Fichte tries to apply the principles of the latter to questions of property

The *Handelstaat*, 1800. and finance. He now definitely denies that it is

the function of the state 'merely to preserve and protect each in his personal rights and his property.' On the other hand, he holds 'that individual property has no existence save through the state, and that the true formula for the function of the

<sup>6</sup> C. E. Vaughan: *Studies in the History of Political Philosophy*, Vol. II, p. 114.

<sup>7</sup> C. E. Vaughan: *Studies in the History of Political Philosophy*, Vol. II, pp. 118-119. Please see also pp. 120-122 for a further examination of this theory.

state is this: "To give to each for the first time his own, to *install* him for the first time in his property, and then first to *protect* him in it."<sup>78</sup>

Finally, in 'Staatslehre' he even throws away the last remnants of the individualistic outlook . . . even the use of the word 'contract,' and the 'lingering' belief in the right of the individual to determine whether he would like to form a community or not, is also silently dropped. He has come to believe in the origin of the society in armed force and in the government of a dictator.

Staatslehre  
1813.

After Fichte, the greatest Metaphysical writer is Hegel. He gives up the idea of occupation and treats *property as the realisation of liberty*.<sup>79</sup> The spirit of man manifests itself in objective life, and this is only possible when his will acts upon an external object. That object by virtue of his will becomes his property. This shows that all persons for their realisation would have such properties, of course according to the quality of their wills. Hence equality in the division of the soil is impossible for persons differently endowed must have inequality rather than equality. This shows that so long as unoccupied lands are available, every one must have property of some sort in order to be free, but when every inch of the earth has been occupied, Hegel's theory would create immense difficulties.

Hegel.

The last great writer in the above school is T. H. Green. Property<sup>80</sup> to him implies appropriation, that is, an act of will, of a permanent self demanding satisfaction and expression. But mere appropriation by a man will not do. It must be recognised as *his* (and not theirs) by others

<sup>78</sup> W. A. Dunning: A History of Political Theories, Vol. III, p. 141. (Page 142 may also be read with advantage.)

<sup>79</sup> R. Pound: An Introduction to the Philosophy of Law, pp. 214—218.

<sup>80</sup> T. H. Green: Lectures on the Principles of Political Obligation, pp. 211-229.

On p. 211 the author asks two questions about property:

(i) How there has come to be property; (ii) How there has come to be a *right of property*. Following him, D. G. Ritchie also notes three questions which ought to be distinguished from one another:

(a) How does the right of property originate?



and guaranteed in its appropriation by means of that recognition. But what is the ground of that recognition? Writers like Grotius based it on contract, but 'clearly until there is a recognised 'meum' and 'tuum,' there can be no contract. Contract presupposes property.<sup>81</sup> Hobbes perhaps was more right when he did not base property on contract: he based it on compulsion.<sup>82</sup> Locke who treats property as derived from labour was certainly right for 'by the same law of nature and reason by which a man has a property in his own person, the labour of his body and the work of his hand are properly his too.' But he does not deal with the ground of recognition. That ground is the same as that of the right of life, of which property is the instrument, viz., the consciousness of a common interest to which each man recognizes every other man as contributing. In this way, the act of appropriation and the recognition of it constitute one act of will, as that in which man seeks a good at once common and personal.<sup>83</sup> Thus our present distribution of property, as it is *not* based on such an ideal principle, is a legacy of force and conquest. Hence Green considers the problem of land and capital from the point of view of common interest and common good. Thus he comes to justify 'capital,' for, after all, it does not lie idle and is distributed to the people through the wages of workers, but he is wholly against the landlords (specially English landlords) who earn by doing nothing and are therefore parasites on society. But, like Hegel, he also justified inequalities. In the words of Barker: "The

(b) What is the justification of the right of Property?

(c) What does the right of property at any given time and place imply?

In this connection, he examines the right to property as it was claimed in the constitution of the state of Kansas, in the American Declaration of Rights, and the French Declaration of Rights of 1791, etc. (Pp. 263—66, 'Natural Rights.')

<sup>81</sup> T. H. Green: *Lectures on the Principles of Political Obligations*, p. 214.

<sup>82</sup> Hobbes' *Leviathan*, Part II, Ch. XVIII, 'There is annexed to the sovereignty the whole power of prescribing the rules whereby every man may know what goods he may enjoy, and what actions he may do without being molested by any of his fellow-subjects: and this is it men call propriety. For before constitution of sovereign power all men had right to all things, which necessarily causeth war; and therefore this propriety being necessary to peace, and depending on sovereign power is the act of that power in order to the public peace.'

<sup>83</sup> T. H. Green: *Principles of Political Obligation*, p. xxi (contents).

Social good requires that different men should fill different positions in the social whole. Different positions require different means; and in this way differences of property are potentially for the good of society, and for this reason they may properly be recognised by the social conscience . . . It is only by the free action of individual wills that the social good is attained; and inequality of property may be regarded as the necessary price for that free action.<sup>84</sup>

After the Metaphysical school, we now come to the historical origins of property. Pound thus notes the two propositions<sup>85</sup> on

### 3. The Historical Theories of Property.

which it has been based. Firstly, the Conception of Property, like the conception of individual personality, has slowly hammered out its way to its present form; secondly, Individual ownership has developed out of group or communal ownership.

We have already seen how the origin of property had been explained on the basis of occupation or first possession. That was

#### The three kinds of possession:

but the first step in the development of the idea of property, for it was no more than 'custody' of a thing by a particular individual, and it could be regarded his only up to the time he had the power to make it his

own. But this could make the thing his only temporarily, for a superior power might displace

him from his possession. Thus a thing to be used permanently and exclusively by an individual depended upon its *recognition by others*.

To use the terminology of Roman law, if the first condition was 'natural possession,' the second

was 'juristic possession,' if the first 'secured the relation of the *physical person* to the object, the second secured the relation of the *will* to the object.' The third stage which is the

highest stage is that of 'ownership' in which the

law secures for a man things which are far beyond his physical

<sup>84</sup> E. Barker: From Spencer to To-day, pp. 54-55.

<sup>85</sup> R. Pound: An Introduction to the Philosophy of Law, p. 221. These theories may be studied in detail from any of the good books on Jurisprudence such as by Salmond or Holland.

power to make his own. These differences in the three kinds of possessions may be stated in the words of Pound, thus:<sup>86</sup>

- (i) Natural possession is a concept of *pure fact* in no degree dependent upon law.
- (ii) Possession or juristic possession is a conception of *fact and law*.
- (iii) Ownership<sup>87</sup> is a purely legal conception having its origin in and depending on law.

Ownership being the highest kind of possession, demands further explanation in view of the definition of Austin who has taken it far beyond its bounds. Austin defines it as

**Austin's view of ownership.** a right "over a determinate thing, indefinite in point of user, unrestricted in point of disposition and unlimited in point of duration." The first part of this definition—'indefinite in point of user'—may mean that the owner can use his property in any way he likes, but it is subject to such limitations as he should not use it in a way that it encroaches upon the similar rights of others. This principle has been based upon two maxims: (1) you should use your property in a way that it may not injure your neighbours. (2) It is not lawful to build upon your land to the injury of another. The second part of the definition—'unrestricted in point of disposition'—may mean that he can do whatever he likes with his property, but this too is going too far. In several systems of law, even the disposition of property is limited. The third part—'unlimited in point of duration'—of course is

<sup>86</sup> R. Pound: An Introduction to the Philosophy of Law, p. 224.

<sup>87</sup> The relation between possession and ownership has been stated thus:

- (i) Possession is prior to ownership. Possession has ripened into ownership by lapse of time. As Savigny puts it "All property is founded on adverse possession ripened by prescription."
- (ii) Possession is the objective realisation of ownership, that is, the owner enjoys most of his rights through possession.
- (iii) Possession is regarded as a *de facto* exercise of a claim while ownership is the *de jure* recognition of it.
- (iv) Ownership strives to realise itself in possession and possession endeavours to justify itself as ownership.

correct but only in the sense that it would be enjoyed by the owner up to the time he is alive, after which it will pass on to his successors.

To sum up, we may now say that the historical development of the law of property has passed through the three stages we have above enumerated, *e.g.*, custody, seisin or possession and ownership. We may now see how the concept of private property has emerged from communal ownership.

In the chapter of the 'Historical Origins of the State.' it has been made clear that the development of the society has been from a group existence towards the rise to importance of the individual. This meant that the group, whether it was a matriarchal horde or a patriarchal tribe, was a unity and it was its gradual dismemberment that made the individual the unit of society. Thus the first great unit of man's existence was a community, whether it associated itself with the name of a totem or traced its origin from a common mythical ancestor. It was its break up that ushered in, say, the clan so that one tribe came to be divided into various clans which thus founded various village communities, and which in turn, broke up in households, so that with the growth of trade and industry, the individual came to be the unit of society. Hence according to this development, all property belonged to the tribal community which, on its break up, also came to be divided among the various clans so that in the end it came to be associated with the households and after them with the individual and thus began to be called private property.

While this development of society might be historically correct, private property, in fact, did not come so late, for already its faint

**The first beginnings of private property.** beginnings can be recognised even in the primitive stage. We know how men, in that state of human existence, went a hunting and how they did

not kill all animals. Those of them which looked beautiful to their playful nature began to be kept as pets, and the first pets of man must have been the mouse, the cat, the pigeon and the hen so that they must have come to be regarded as *peculiarly his*. Besides this, on many an occasion, he might have caught hold of animals

which must have been more than the necessity of the group demanded at that time, so that every kinsman who might have got such numbers must have looked after them. Hence not only he must have learnt economy, not only the method of meeting the needs of the morrow, but with them also the idea of mine and thine. Thus the *idea* of private property had long come into existence when private property in land made its appearance.

Private property in land (or in any other thing) has not simply been associated with the partition of the households: in fact it has been existing side by side with the household itself.

Self acquired property and Hindu Law. The best example of this 'self acquired property'

is to be found in our Hindu Law. The Hindu family is a joint-family and therefore property too is joint, but in some cases, property acquired by a particular individual remains his and his alone. Thus when a Hindu left his family and went to war and there, say in booty, he amassed wealth or got other things, those things would remain his property. Thus property acquired by personal valour or by one's 'earning' remains private property and it has nothing to do with household property.

Thus, to summarise, we may say that property in the beginning was common; that the rise of the idea of keeping 'pets' and the catching of animals in superfluity, gave man the first chance of calling things as his till the parti-

**Summary.** tion of households and the recognition of self-acquired properties definitely set in motion distintegrating tendencies, so that the changes introduced by the commercial and industrial activities brought the individual into significance and made individual ownership the normal type.

Besides this historical view of the origins of property, we may further consider the positive theories of property of which the

**4. The Positive theories of property.** greatest exponent, of course, is Herbert Spencer. He believed in a law of 'equal freedom' which issued in the free energy of the faculty; and this

law was limited only by the equal freedom of others, so that every individual possessed natural rights, which 'are nothing but artificial divisions of the general claims to exercise the faculties.' These rights, because they are inherent properties of the human

constitution, are divinely ordained, and happiness which is the end of the exercise of these natural faculties is willed by the Creator.

These rights are both public and private. The former are those which he exercises in relation to the state, the latter concern his family and property. It is with the rights of property that we are concerned here. The law of 'equal freedom' for every individual demands equal access to land, and therefore, logically enough, Spencer denies any right of private property in land, and yet he also speaks of the desire for property as one of the elements of our nature,<sup>88</sup> and hence a 'natural right' which exists independently of social recognition. Besides this contradiction, another inconsistency makes his theory of natural rights null and void. He speaks of the right of property as based on 'the consent of society,' for before expending his labour, the individual had paid a consideration to the community. Thus if a right is based on such *social recognition*, what meaning can be attached to the term natural right as independent of society? Surely, the whole conception of 'Natural Right' as enunciated by Spencer cracks at his conception of property.

Lastly, if the law of equal freedom demands equal access to land, then logically, his argument leads him to national ownership of land. This means that he began with individualism and ended in Socialism for his original presocial rights come to be controlled by the state which becomes the guardian of distributive justice, and yet it is this that he does not want, for, if the state helps the poor and the needy, another natural law, the law of the survival of the fittest is broken. Thus the strong man who is by nature meant to survive the struggle of life is robbed of his right when the state unjustly helps the weak and the infirm. Hence it is 'free competition' that fulfils the demands of the laws of equal freedom and of the

<sup>88</sup> Coker summarises the various reasons advanced by different writers (*Economic Individualists*) thus:

"Owners of property, it is said, should be free to accumulate as much property as they can by what means they choose (within the traditional laws of crime, tort and contract) because private property is a natural right of man; or because free competition in the pursuit of wealth is the only way of maintaining natural relations of supply to demand; or because it is the only way of conserving the effects of a natural selection and reproduction of the fittest individuals in a competitive struggle for existence; or because, experience illuminated by our common

survival of the fittest,<sup>89</sup> and therefore the only great function of the state after the provision of army, navy and the means of justice, is the enforcement of contracts. Beyond this, the state should not go unless it means to trample upon the natural rights of man.<sup>90</sup>

After the positive theory of Spencer, we may now deal with the psychological theories of property. We have already seen that all

**5. The Psycho-logical theories of Property.** writers, while they have explained their theories on some such reason as 'labour' or 'occupation,' have also hinted in passing that it is the *nature*

*of man* to control natural objects, for such control tends to self preservation. This shows that private property is the result of the instinct of self preservation in man. But none of these writers has developed this psychological basis of private property to an appreciable extent. It is only in our own times that attempts have been made to a psychological interpretation of political phenomena and hence out of these various attempts, we would discuss here the theory of property as it has been developed by Mr. Bertrand Russel in his 'Principles of Social Reconstruction.' His theory is not so much an explanation of the origins of private property as it is an examination of the place of property in the modern state. He therefore discusses and criticises it and suggests reform only because he is stating a *creative theory of politics*.

sense, shows us the harmful moral and practical consequences of governmental attempts to minimize the effects of an unequal distribution of wealth. (Recent Political Thought, p. 392.)

<sup>89</sup> Besides Spencer, Coker in his 'Recent Political Thought' also notes the ideas of William Graham Sumner who, among others, seems to have taken inspiration from Spencer also, for he too did not favour governmental interference. The following passages, therefore, may be usefully noted. "Let it be understood" he said, "that we cannot go outside of this alternative: liberty, inequality, survival of the fittest; non-liberty, equality, survival of the unfittest. The former carries society forward and favours all its best members; the latter carries society downwards and favours all its worst members," p. 395.

"Competition is a law of nature . . . Nature submits to him who most energetically and resolutely assails her. She grants her rewards to the fittest," p. 395.

"Charitable and regulatory laws, although they may be enacted on behalf of the 'poor,' 'weak' and 'unfortunate,' actually protect the idle, negligent, inefficient and intemperate at the expense of the industrious and prudent," p. 396.

<sup>90</sup> The whole conception of natural rights as expounded by Spencer may be seen in Barker's 'From Spencer to To-day,' pp. 84, 85, 87, 98—104, 122, 129.

In the 'Preface' to this book he states his case thus: "My aim is to suggest a philosophy of politics based upon the belief that *impulse has more effect than conscious purpose* in moulding men's lives. Most impulses may be divided into two groups, the possessive and the creative, according as they aim at acquiring or retaining something that cannot be shared, or at bringing into the world some valuable things such as knowledge or art or good will, in which there is no private property. I consider the best life that which is most built on creative impulses, and the worst that which is most inspired by love of possession. Political institutions have a very great influence upon the dispositions of men and women and should be such as to promote creativeness at the expense of possessiveness. The state, war and property<sup>91</sup> are the chief political embodiments of the possessive impulses; education, marriage and religion ought to embody the creative impulses though at present they do so very inadequately. Liberation of creativeness ought to be the principle of reform both in politics and economics."

From this we may conclude that Mr. Russel regards private property as founded upon the possessive impulses of men and hence it appeals to the lower nature of man. His appeal is

Property and impulses. directed to raise the moral stature of man, to his higher self, which should free itself from the love of possessiveness and issue in creative energy not only for the spiritual pleasure of his personality but for the good of his society and humanity at large. "The best institutions are those," says Mr. Russel, "which produce the greatest possible creativeness and the least possessiveness *compatible with self-preservation*."<sup>92</sup> This qualifying phrase definitely tells us that our author is not against all property: he wants it to be so limited and utilised that if it may satisfy the minimum wants of all men, it may also enrich the life of the community, rather than make men parasites upon their own society.

<sup>91</sup> At another place in his 'Social Reconstruction,' Mr. Russel says, "The typical creative impulse is that of the artist: the typical possessive impulse is that of property."

<sup>92</sup> B. Russel: Social Reconstruction, p. 234.



He further says, 'possessiveness may be defensive or aggressive: in the criminal law it is defensive and in criminals it is aggressive. It may perhaps be admitted that the

**Possessiveness.** criminal law is less abominable than the criminal, and that defensive possessiveness is unavoidable so long as aggressive possessiveness exists.<sup>93</sup> But is it not correct that even defensive possessiveness when it grows strong, becomes hostile to creative impulses? Education, marriage, and religion are really creative in their nature, but they too have been vitiated by possessiveness.<sup>94</sup> Thus our whole life is pervaded with possessiveness and we have lost ourselves in search of money. Even our political thought has come to be based on the 'economic desires' of men as though no other factor is of any significance in our present life. Hence our great problem is to create conditions<sup>95</sup> for the creative impulses as against the possessive ones.

Mr. Russel then states the four chief sources<sup>96</sup> of recognised legal rights to private property, viz., (i) a man's right to what he has made himself, (ii) the right to interest on capital which has been lent, (iii) the ownership of land, (iv) and inheritance.

The first of these is very difficult to recognise in these days of large scale industry. If a thing has been produced by a factory, what part of its value belongs to the labour of a worker is not easy to say. Hence the labour theory of value comes to be a mischievous proposition rather than a canon of distributive justice.

<sup>93</sup> *Ibid.*, p. 234-35.

<sup>94</sup> B. Russel: *Social Reconstruction*, pp. 236-37 where he gives a fine paragraph on the bad effect of possessiveness on creative things like education, marriage and religion.

<sup>95</sup> Here Mr. Russel examines the industrial system on four tests and then gives his verdict in favour of that test which may lead to greatest freedom, vitality and progress. See *Social Reconstruction*, p. 119.

<sup>96</sup> B. Russel: *Social Reconstruction*, pp. 123-124.

How these four sources of private property form a 'crescendo of respectability' in our life may be specially noted in these pages of the writer.

The right to interest on capital is also socially very harmful for it is a sort of 'cannibalism' as Barker would call it. While it makes the generality of the people poor and destitute, it makes the wealthy unnecessarily powerful so much so indeed that they come to control all important aspects of social life. This means that the accumulation of wealth by interest in fewer and fewer hands makes the freedom of the community null and void.

2. Interest on Capital.  
Thirdly, private property in land can have no justification except in the power of the sword which created it and which even now maintains it. It was the historical necessity of winning over the robbers that introduced private property as a measure of their conciliation. Its present existence in the form in which we see it has no good for the community, and therefore must cease after granting of course 'a moderate life income to the present holders.' The rent too must go to the state.

3. Property in Land.  
Lastly, along with landed property, must go the right of inheritance. The owner of a property usually claims to dispose of it as he would please without any consideration of its relation to the social good. Hence beyond the fruit of one's exceptional energy or skill, say that of an inventor, to enjoy more than an average citizen does, no privilege is to be recognised, but that too must end with his life, for inheritance creates unnecessary idlers in society and gives them the power of the wealth.

4. Inheritance.  
Thus our great need in modern times is to free the spirit of man from these checks and obstacles and to so remodel our political and economic institutions that creativeness, vigour, vitality and joy of life may come to be possible for the common man, and this cannot be unless the three conflicting interests of the consumer, the producer and the capitalist come to be harmonised in the interest of the common good.<sup>97</sup>

Our great need.  
Among the different schools noted by Pound, the last is the Sociological school of whom we would briefly consider only Duguit.

<sup>97</sup> For practical suggestions of Mr. Russel, see 'Social Reconstruction,' pp. 139—142.

That writer does not consider private property from the point of view of private right as we have seen other writers doing in the previous pages. He looks at it from the point of view of *social solidarity* and hence considers it as an element in the social function. Just as he does not regard even the agents of government, that is, its different departments, as elements of the sovereignty of the state and recognises them only as the means of the purposes of law, in the same way, property is nothing but an element in the public service. Law which embodies a cohesion of social interests thus includes property also as an element in that cohesion and it comes to be a social institution rather than a private affair, a natural right of men which it is a sin to touch without the consent of its owner. It thus fulfils the economic needs 'in a society organised through division of labour'

In the end, we would now summarise the ideas of H. J. Laski on the concept of property as he has expressed them in his 'A Grammar of Politics.' That writer discusses this

**The creative theory of Laski.** topic not simply from the psychological, the sociological or the moral point of view: he brings within it the historical survey as he also examines the economic arguments, so that he comes to give us not merely a realistic approach to a creative view of politics: he makes his essay a *synthesis* of all arguments, and yet, from the first to last, it never loses its *pragmatic character*. This is why I have given him here a separate place outside the schools I have already discussed.

Laski begins with the psychological premise that the root instinct of man is self preservation, and every man wants to acquire property because it not only gives security: it creates a stake among fellowmen.<sup>98</sup> Private property, therefore, has been justified in many ways:<sup>99</sup>

**Justification of Property.**

<sup>98</sup> Laski here not simply refers to the creative and artistic power of property, he also refers to the frivolities of the men of property (p. 173) and how they corrupt and dominate every avenue of social life (pp. 175—177) also p. 185-86. He further notes the 'mitigating' circumstances that have often given relief, but still the poor man has always suffered from disabilities (p. 174).

<sup>99</sup> Laski's 'A Grammar of Politics, pp. 177—179.

Psychologically, it has been argued that men need an incentive to labour and the power to acquire property is such an incentive for it makes them work. (Is this always correct one may ask?)

Ethically, property is the return made to the individual for effort or ability (even though, one may again ask, it may be by selling opium to the community?). Do all who labour day and night acquire property in the sense we are considering here? Is not, then, an ability of a particular kind involved in making profits irrespective, of course, of the good of the community? Further, on the same moral consideration, it has been argued that property breeds many finer qualities of human character such as generosity, inventiveness and energy. Have not these virtues been found among those who could neither amass wealth nor acquire property?

Economically, as Lord Cecil seems to think, property is the result of supplying effective demand. But does this mean that if there is a demand of obscene literature or any other immoral thing, that demand should be responded to because it would result in property?

Historically, it has been argued that all progressive societies have always been based upon the regime of private property, and that all backward communities have been found to have a collective basis. (Does this mean that a move towards Socialism is backwardness?). Is it not correct that the history of private property is a history of its gradual limitation? Can we now claim property in slaves, in women and in many other things which have been definitely recognised as of general social utility?

With the rise of Socialism, however, social responsibility began to be more emphasised than the rights of the individual, so much so that legislation every where began to have a care  
Social responsibility. not simply of the aged and the sick: it also began to mitigate the hardships of life as they were involved in the inequalities of social opportunity. Thus private property was asked to justify its social utility, its relation with social service.<sup>100</sup>

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<sup>100</sup> In this connection, see the two questions that come to the forefront as to *what things* and *what amount* of them could be exclusively controlled by the individual, p. 183.

This meant the demand of a philosophical justification of property which made the defence of private ownership morally possible.

Philosophical justification. Philosophically, therefore, the right to private property could mean only such control of the

individual as would enable him to realise his best self. This means that he should *at least* be able to satisfy those primary material wants, hunger, thirst, the demand for shelter, which, when unsatisfied prevent the realisation of personality.<sup>101</sup> This Mr. Laski regards as an *exclusive* claim of the individual and this is his '*minimum claim*' to find himself. But this *exclusive* claim does not mean *absolute* claim: it is *relative* to duty, and this duty is the function of the individual in the life of his community. Thus without personal effort no individual has a right to maintenance by the community. He can only live if he pays for his living.<sup>102</sup>

This statement of 'personal effort and function by the individual' carries us to the question of inheritance and raises the issue

Limits of Inheritance. whether a man can or cannot provide for the future security of his sons and daughters. Laski's

answer is bold and emphatic. Provision for children does not mean making them parasites upon society. They must work for their living. This is the difference between 'earning' and 'owning.' Hence 'inheritance is always justified where it means the provision of an income for widowhood on the one hand, and the education of children on the other. But the retention of property beyond that period cannot be justified.'<sup>103</sup>

<sup>101</sup> H. J. Laski: A Grammar of Politics, p. 184.

<sup>102</sup> This question of 'minimum claim' is a great contribution of Laski and may be usefully read in detail on p. 184 ("Grammar"). The difference between 'exclusive' and 'absolute' may be understood thus: A right may be claimed by an individual as *peculiarly his* in which no other man has any right. This is *absolute* because it is not conditioned by duty. But 'exclusive' here stands for a claim that the individual demands by virtue of his humanity. Thus it is the *minimum right of mankind* to be fed and clothed that has been emphasised here. In one word, absolute stands for a personal claim and exclusive for a universal claim of the individual.

<sup>103</sup> H. J. Laski: A Grammar of Politics, p. 187. In our Indian conditions, I think, Mr. Laski's principles would also allow provision for the marriage of daughters, if not of sons. Our author also makes it clear that a man can inherit such thing as are an expression of one's personality such as his father's collec-

Besides this justification of property from the individual and the social stand points, Mr. Laski also studies property as a theory of reward and as a theory of industrial organisation.

Property as a theory of reward. As a theory of reward<sup>104</sup> he considers

(i) the communistic case for equality of income, (ii) the higgling of the market as based on supply and demand, (iii) the formula 'from each according to his powers, to each according to his powers, to each according to his needs,' and (iv) the satisfaction of the average wants of the common man, and after a careful discussion of all comes to the conclusion that *the last* is best for it represents the 'civic minimum,' meaning thereby that the individual must *at least* have what may keep up his body and soul together, and must contribute his best to the social whole.

As a theory of industrial organisation also, property must stand for the release of personality; for according to Laski, our present system of property can neither be justified

As a theory of industrial organisation. morally, nor psychologically nor economically<sup>105</sup> and hence, like Mr. Bertrand Russell, he pleads for reform and reorganisation. Industry must be made a 'profession'<sup>106</sup> informed by public service,<sup>107</sup> rather than remain a means to the realisation of personal gains. This demands not simply a transfer of power from the selfish capitalist, but a complete overhauling of the whole system. Professionalisation thus comes to mean democratization, and democratization involves the introduction of a constitution in all industry. Thus reformed and regulated, our industrial system would work for freedom and would therefore

tion of books, or of pictures for these are in no way socially harmful unless of course they are being utilised in a way that they may result in the amassing of wealth.

<sup>104</sup> H. J. Laski: "Grammar," pp. 189—201.

<sup>105</sup> For reasons, see *Ibid.*, p. 216.

<sup>106</sup> To understand its meaning clearly, the following passage of Laski ("Grammar," p. 202) may be noted: "That element of service is integral to the idea of a profession, it is not yet integral to the idea of business enterprise." Both school mastering and law are professions, and yet they can be degraded to be the meanest of occupations.

<sup>107</sup> For detailed suggestions, see pp. 203-204 ("Grammar").

become not only a source of self realisation to the individual: it would also become a real means of social service. It would therefore usher in "a society of deeper spiritual values, from which the worst tyranny that of man over man will have been banished. For fellowship is possible where men are won to a common service, and they can join together when that by which they live is born in justice."<sup>108</sup>

<sup>1</sup> *Ibid.*, p. 217.

## CHAPTER XIV

### UTILITARIANISM

The term 'utility' in the words of Bentham himself means "that property in any object, whereby it tends to produce benefit, advantage, pleasure, good or happiness, or to prevent the happening of mischief, pain, evil or unhappiness to the party whose interest is considered: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual."<sup>1</sup> Hence the principle of utility to him meant 'that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question.' Thus Utilitarianism came to mean to Bentham '*the greatest happiness of the greatest number.*' This principle was to be applied not only to morals but also to legislation and the latter is the chief aim that Bentham had in view, for it was legislation that could promote happiness.

It was, therefore, Bentham's purpose to make legislation a new science and study its underlying principles. He tried to lay down 'primary truths' (like axioms of Mathematics) regarding human conduct, for he believed that all things and actions 'could be fitted to enter into pigeon holes.' This was his moral Philosophy.

With this end in view, he starts with the proposition that 'Nature has placed man under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand, the standard of right

<sup>1</sup> Stephen: The English Utilitarians. This passage and others that follow, unless definitely otherwise indicated, have been quoted from this book.



and wrong, on the other, the chain of causes and effects, are fastened to their throne.' It is the avoidance of pain and the acquisition of pleasure, or at any rate, the surplus of pleasure over pain, that constitute real happiness. All actions of men are determined by them and they are the real tests of morality itself, that is actions are good or bad only because of their tendency towards pleasure or pain. All things and actions must, therefore, justify themselves by their 'utility.' Abstract principles had no meaning: they were unreal: every thing was to be judged according to an 'external standard.' The Legislator thus had to take cognisance of facts and facts only.

For purposes of legislation, he codifies the '*Springs of Actions*' and provides 'Sanctions' for right and wrong conduct. The Legislator will use them to 'maximise' happiness and 'minimise' pain. The Springs of Action considered in themselves are 'all' the pleasures and pains which are the primary data, and the springs as influencing conduct are the motives. In other words, the various modes of conduct are determined by expectations of happiness and pain.

**Springs of actions.**

The Springs of Action include:

*The measure of pleasure and pain in general.* The value of a pleasure for an individual, considered by itself (and consequently the evil of pain) depends upon its *intensity, duration, certainty and propinquity*: and considered with regard to the ways of getting it, upon its *fecundity* (i.e., tendency to produce other pleasures or pain) and its *purity* (i.e., freedom from the admixture of other pleasures and pains). For a number of individuals, the value of pleasure (or the evil of pain) besides these six qualities, depends upon its *extent* also, i.e., the number of persons affected by it. In this way, pleasures and pains represent a process of 'hedonistic calculus,' a process in which both of them can, in some sense, be weighed and measured. In other words, in any particular case, if we want to calculate pleasure and pain, we may balance the pleasure against the pain, and estimate the value accordingly. This is why to Bentham pleasure and pain are the only good and evil.

1. The measure of pleasure and pain.

The springs of action further include their *various species*. This leads Bentham to their 'codification' or classification. He mentions **fourteen** 'simple pleasures' . . . Of *senses*,

2. Various species of pleasure and pain. *wealth, skill, amity, good name, power, piety, benevolence, malevolence, memory, imagination, expectation, association* and of *relief*, but this is not on any scientific basis. He also recounts 'simple pains' which are **twelve** in number . . . of *privation, of senses, awkwardness, enmity, ill name, piety, benevolence, malevolence, memory, imagination, expectation* and *association*.

The springs also involve '*varying sensibilities*' of different individuals to pains and pleasures and Bentham sets forth **thirty-two** circumstances influencing sensibility. Human

3. Various sensibilities. beings differ in *health and constitutions, knowledge and education, character and inclination, ranks and circumstances*, and a study of these varieties is of the greatest necessity, nay of utility, to the legislator. Suppose the legislator wants to punish a certain criminal. Now punishment will vary with different individuals . . . a child, a woman, a young and stout fellow, and an old man.

In this way, pleasures and pains were to be the tests of all legislation, having taken all the circumstances into consideration.

But these were simply 'springs.' Bentham also considers 'Conduct' in which they issue. All actions of men are always done with a view to certain *consequences*. And it is

**Conduct.**

the *consequence* that is to be the guide of the legislator, not its motive. Hence motives by themselves are neither good nor bad. They are only good or bad with reference to their consequences . . . if the balance is in favour of pleasure, they are good; and if it is in favour of pain, they are bad, for pleasure is always good and pain always evil: rather they are the only good and evil. Thus the legislator has always to regulate actions with a view to acquire a surplus of pleasure over pain, and therefore the 'sanctions' are used to modify the motives in the right direction. The legislator in this sense can only rely on an 'external standard' and the morality of an act can only be judged by its effects.

From these principles of Bentham's moral Philosophy which we have briefly considered several conclusions can be easily and usefully

drawn so that we may see how these bases affect the politics of Bentham whose chief aim was the acquisition of pleasure or the greatest happiness of the greatest number.

In the first place, the Utilitarian theory was primarily ethical: it subordinated politics to ethics for every political action and institution had to justify itself on the basis of happiness. Happiness was the ultimate ideal sought for as it was, in fact, ever the sole aim of man.

#### **Character of Utilitarianism.**

It was not a vague expression to Bentham unworthy of becoming the basis of an ethical system, rather it was the *sure* guide for all human conduct. It did not vary 'from man to man' . . . it was not *subjective*. It was in reality a thing which every one knew and was therefore a better substitute for a vague word like justice. Justice thus is always a means to happiness, never an end.

Secondly, though Utilitarianism was ethical: it was not metaphysical. It did not believe in pure figments of imagination. It did not meditate upon 'Being and not Being.' It took cognisance of the hard realities of life. It was not abstract: it was concrete and real. This is why we find Bentham declaring 'Natural Rights' as 'simple nonsense . . . rhetorical nonsense . . . nonsense upon stilts.' Further, he is entirely opposed to theories which do not appeal to facts . . . 'to an external standard.' Thus sympathy of Adam Smith, moral sense of Hutcheson, understanding of Pride and other expressions like Fitness of Things, Right Reason. Natural Justice have no meaning for him. For Bentham, pains and pleasures were the only real things and as such the 'utility' the only guide.

Thirdly, Utilitarianism was iconoclasm. Anything whatever its sanctity had no value for it, if it had outlived its utility. It must justify its existence by its continuous usefulness. Blackstone had justified the English constitution (King, Lords and Commons) on the basis of social contract and the wisdom of ancestors. To Bentham,

Some conclusions.

1 Ethical.

2 It was not Metaphysical.

3. It was Iconoclasm.

social contract was a mere verbiage. It could create no obligation which requires sanction. The wisdom of ancestors was no authority for him. for forms of government by themselves were pure abstractions: they could justify themselves only by their usefulness. Further, he was not at all enamoured of the wisdom of ancestors. In a characteristic passage, he says. "From foolish opinion comes foolish conduct, from foolish conduct the severest disaster; and from the severest disaster the most useful warning. It is from the folly, not from the wisdom, of our ancestors that we have so much to learn." Thus, like Hobbes, Bentham was thoroughly devoid of the *historical sense* . . . of respect for custom and tradition, and this explains why Utilitarianism has been called Radicalism or a Revolutionary Philosophy.

Fourthly, it has been contended that Utilitarianism had no ideals: that it was a mere Pig-Philosophy. This is not true. Utilitarianism had certainly *ideals*, though it was *not* 'idealism.'

4. It was not a Pig-Philosophy. It emphasised the 'ought to be' for human happiness without idealising the 'real.' The real to it never represented the ideal. Only reform could make it so, and the test of reform was utility . . . the greatest happiness of the greatest number. 'Service was the only criterion of the goodness and badness of all actions and institutions.' Thus 'Reform and Service' were the two constant watch words of Utilitarianism for the realisation of happiness. As Davidson says, it stood for 'human life, human activity, human well being,' or as ~~MacCum has put it~~, Benthamism was humanism. It was the greatest philanthropy. It stood against tyranny and injustice and championed individual freedom. Further, the term 'Pig-Philosophy' is very misleading. It tries to imply the satisfaction of our desires with no higher purpose in view. It reminds us of the 'community of swine' in Plato's Republic. But this is too much to say of Utilitarianism. As Davidson has very succinctly put it "by placing benevolence at the top, and by appraising the whole system by the test of the greatest happiness of the greatest number, not forgetting that the individual is to count for one, it renders nugatory the objection that has so frequently been brought against Utilitarianism that it is essentially

a selfish system. Universalistic hedonism is anything but selfish, even although the individual's pleasure may be at the root of it. Self-love and selfishness are by no means the same thing."<sup>2</sup> It is true Bentham could not appreciate pure disinterestedness, but it was a defect which was later on removed by the later Utilitarians.

Lastly, Utilitarianism was not a mere dogma, or a philosophy to be studied for its own sake: it was a *practical philosophy*. Its

5. It was a Practical philosophy. leaders were 'actively engaged in framing political platforms and carrying on popular agitations . . .

the utilitarian doctrines were worked out with a constant reference to practical applications.' Utilitarianism thus took its origin not in a vacuum, but with due reference to men and things. It was intensely practical: it was a movement. Bentham certainly made this movement; and yet this movement made John Stuart Mill and both of them will ever be remembered as the real inspirers of English Liberalism. for, as Sir Henry Maine admits, he did not know any single law reform since Bentham's day which could not be traced to his influence, or as Davidson has remarked that 'Bentham may rightly claim that the vast reforms of prisons and penitentiaries that have taken place since his day, and the institution of reformatories and industrial schools, derived an impulse from him and have proceeded on the principles that he laid down.'<sup>3</sup> "Bentham's position," writes Stephen, "is in one respect unique. There have been many great thinkers, but there has been hardly any one whose abstract theory has become in the same degree the platform of an active political party. To accept the philosophy was to be also pledged to practical applications of Utilitarianism."<sup>4</sup>

Wherein then lies Bentham's greatness? Surely, not in his doctrine which was in no sense original: but in his *method*. 'The

**Bentham's greatness.** doctrine which came to him simply as a general principle was in his hands a potent instrument applied with most fruitful results to questions of immediate practical interest.'

<sup>2</sup> Davidson: Utilitarianism, p. 60.

<sup>3</sup> Davidson: Utilitarianism, p. 111.

<sup>4</sup> Stephen: The English Utilitarians, p. 235.

Thus the supreme merit of Utilitarianism lies not only in its practical character, not only in its emphasis on reform and service, and not only, further, in providing a simple and common-place formula of the greatest happiness of the greatest number, but in the fact that it *placed the individual before the institution*. The state for practical purposes was not to be as much a sovereign state as it was to be a service state. Its law was certainly to be a command (in the true spirit of a lawyer), but it was at the same time to be useful, otherwise the individual had a moral right of rebellion.

**Permanent Contribution.**

In short, it was the principle of utility 'accurately apprehended and steadily applied' that was the real test of the existence of all human institutions. There was to be no mere sentimentalism: the things and actions could justify themselves only on the basis of their results.

While these are the characteristic features of Bentham's Utilitarianism, we may also note some of the apparent crudities in his philosophy.

In the first place, Bentham regarded all pleasures equal and tried to identify pleasure with happiness. Mill later on differentiated

**Defects.**

between the different kinds of pleasures and set forth clearly that one pleasure was in no sense as good as another. To Bentham the 'quantity of pleasure being equal, push pin is as good as poetry.' To Mill, 'It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied.' Further pleasure was not happiness. Pleasure is always momentary, a passing phase, happiness is more durable, more lasting in its effects.

Secondly, Bentham carried his 'measure' of pain and pleasure too far. It is as if he can measure the 'mind' of man, otherwise he would never have tried to 'codify' different pleasures and pains. In our own days Experimental Psychology is trying somewhat to gauge the tendencies of human mind, but in Bentham's analysis there was no Scientific plan: it was too mechanical and perhaps, personal. Further in the 'springs of action' that he recounts to us we do not find any mention of 'Conscience,' 'Principle,' or 'Moral

Duty,' and this is because he regarded them as fictitious entities—things having no value without the conception of utility and in no sense good guides to human conduct.

Thirdly, the conception of the greatest good of the greatest number *emphasises more number and quantity than 'quality,'* that is, it falls short of the higher conception which is the 'common good.'

## CHAPTER XV

### INDIVIDUALISM

The theory of 'Individualism,' as its very name implies is the theory which recognises the 'individual' as the only ultimate fact

**Its meaning.** which any constitution of society must in no case ignore. It exalts the individual to the position of the *only reality* in our life, for the society itself is nothing but a product of individuals themselves. The individual is the centre of all social life and it is for him and by him that the whole social structure exists and derives its being.

Such Individualism<sup>1</sup> was preached by the Social Contract writers who started with the individuals in their conception of the state of

**Social contract writers.** Nature. Whether we think of Hobbes, or Locke or Rousseau, we find this equally true in each case,

for all of them started from the atomic existence of individuals in the state of Nature. The picture of the state of Nature which each of these writers has drawn may differ, and does differ, but the life of the individual as a *separate* entity and as the *only absolute fact* is common to them all. This is why Professor Hobhouse was led to remark that it seemed as if no individual of the state of Nature had father and mother.

But it would be going too far, if we assert on the basis of their conception of the state of Nature, that each of these writers was essentially individualistic. It is true that each of

**The individual as the only political real.** them started from the 'individual' as the only political real, but that was only the fashion of the

times in which they lived. All writers tried to present their view points through the medium of the 'social contract' in the same way as later on, the 19th century writers influenced by the Darwinian theory of Evolution, tried to explain political phenomena on the basis of evolution or organism. We can, therefore, call them 'Individualist' or 'Collectivist' only after we have considered the whole of their political teaching.

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<sup>1</sup> This may be called '~~Abstract Individualism~~' as Lord has done in his 'Principles of Politics.'



Thus in the case of Hobbes we find that though he started from the individual and his natural rights, he ends in the creation of a Leviathan, after which the individuals have no rights save those allowed by the sovereign power.

**Hobbes an authoritarian.**

In this way, Hobbes comes to be a perfect absolutist, and a thorough *anti-individualist*. *Starting from an individualism of the worst type he ends in an absolutism of the worst type.* He is, therefore, in no sense a libertarian, standing for the rights of the individual: he is an authoritarian emphasising the claims of the state as against the individual. The individual has no right against the state or the sovereign power though he has the *duty* to obey and the sovereign has every *right* against the individuals but no *duty* because he is no party to the contract.

In the case of Locke we find a different thing. *Starting from the individualism of the state of Nature he ends also in individualism.* He remains throughout an individualist.

**Locke a libertarian.**

The natural rights of life, liberty and property are imprescriptible rights of the individuals and therefore they do not transfer them to a sovereign outright. They first create a community. As Locke puts it: 'but because no political society can be, nor subsist, without having in itself the power to preserve the property, and in order thereunto punish the offences of all those of that society, there, and there only, is political society where every one of the members hath quitted this natural power, resigned it up into the hands of the community in all cases that exclude him not from appealing for protection to the law established by it.'<sup>2</sup> In this way the community comes to be 'one body' composed of all the individuals who, therefore, lose nothing by making the contract: rather, they gain the force and judgment of the community, for the individual force and judgment of the state of Nature, and this judgment of the community is to be expressed by a majority.<sup>3</sup> This statement of Locke makes us believe that he also stands for the power of the community as a whole as against the individual but he later on makes his attitude clearer. Says he, "But

<sup>2</sup> Locke: Civil Government, Chapter VII.

<sup>3</sup> *Ibid.*, Chapter VIII.

though men when they enter into society give up the equality, liberty and executive power they had in the state of Nature into the hands of the society, to be so far disposed of by the legislative as the good of the society shall require, *yet it being only with an intention in every one the better to preserve himself, his liberty and property (for no rational creature can be supposed to change his condition with an intention to be worse)*, the power of the society, or legislative constituted by them can never be supposed to extend farther than the common good, but *is obliged to secure every one's property* by providing against those three defects above mentioned that made the state of Nature so unsatisfactory and uneasy."<sup>4</sup> Thus the core of his thought never comes to be the community: it is always the individual and the individual alone. His conception of society thus comes to be like a joint-stock company in which each share holder has become a member with a view to his own profit. Locke failed to understand the organic character of the community which was to him nothing but a sum of its members. His conception of the 'common good' is therefore as unreal as his conception of the 'oneness' of the society, and it is more approximate to Bentham's conception of 'the greatest good of the greatest number' than the 'justice' of Plato. In this way, Locke throughout remains a Libertarian and nothing else, and the Right to Revolution that he concedes to the people as against the arbitrary powers of a legislative or Executive is but one step more in that direction.

Rousseau also starts from the individualism of the state of Nature, when, wild in woods the noble savage ran,' but he ends in

Collectivism where the community has become in every sense supreme. It was the great merit of

**Rousseau,  
Collectivist.**

Rousseau that he was successful in reconciling the liberty of the individual with the authority of the state by arranging his contract in such a way that every individual by giving himself up to the community remained as free as he was before, for by the act of association he became an element in sovereignty itself, a citizen, a subject and an individual in the last. In this way, in obeying the community or the General Will the individual is only

<sup>4</sup> *Ibid.*, Chapter IX.

obeying himself. Thus the age-long conflict of liberty and authority, of subject and sovereign, of the individual and state was resolved to insignificance by making obedience equal to liberty. The organic conception of the state in which the individual is part and parcel of the community and the community itself is indissolubly made up of the individuals was for the first time presented to the world by Rousseau. The General Will of Rousseau was as absolute as the sovereign of Hobbes, and the people in Rousseau as free as they were in Locke, and yet the sovereignty of the community was unquestionable. Thus Rousseau was in no sense an individualist.

There are writers, like Lord,<sup>5</sup> however, who maintain that even Rousseau failed to reach a truly organic conception of the state

**Lord's view.** because he had said that every individual possessed a part of sovereignty. And this he did in the following sentence. "Suppose the state is composed of ten thousand citizens. The sovereign can only be considered collectively and as a body, but each member, as being a subject, is regarded as an individual: thus the sovereign is to the subject as ten thousand to one, i.e., each member of the state has as his share only a ten-thousandth part of the sovereign authority, although he is wholly under its control."<sup>6</sup> This without doubt seems to suggest that Rousseau also thinks of society in terms of a joint-stock company, but this would be going too far if we magnify a little statement like this against the whole volume of his social contract. He has already made it too plain that the contract has created 'a moral being' with a will of its own and in which every individual is but an *indivisible* part of the whole.

But this 'Individualism' of the state of Nature is not the *Individualism* we have technically begun to call by that name. It was a

**Real Individualism.** mere *tendency*, or at the most, an *outlook* of viewing the individual in a certain capacity. It was in no sense a systematic theory of the rights of the individual or a movement. By individualism usually we mean the 19th century Individualism of J. S. Mill and Spencer who regarded

<sup>5</sup> Lord: Principles of Politics, p. 130.

<sup>6</sup> G. D. H. Cole's Edition of 'Social Contract' p. 51.

'individuality' as the only basis of social well-being. It is true that they were not the first to espouse the cause of the individual as against the claims of the state. Sophists in Greece had already discussed 'man as the measure of all things,' but it was to their credit that, in modern times, they were the first to state a full doctrine of the individual's rights against the possible claims of the state. Their individualism was both *a political theory and a movement*.

But before discussing Mill's or Spencer's individualism we may briefly note that Bentham also was essentially an individualist. At

first sight it appears that the utilitarianism of Bentham and Individualism. Bentham because it depended upon state action

and legislation was anything but individualism, but in fact utilitarianism was a check on Leviathan, as Fredrick Pollock puts it, "the formula of the greatest happiness is made a hook to put in the nostrils of Leviathan that he may be tamed and harnessed to the chariot of utility,"<sup>7</sup> for while the individual had to *obey punctually, he had to censure freely*. The theory of utility emphasised the greatest happiness of the greatest number and every individual had to test the action of the state with that end in view. Thus the whole trend of utilitarianism was *individualistic* and the very formula of the greatest happiness emphasised *numbers*. In this way, Bentham failed to reach an organic conception of state and society and his whole doctrine considered the society in terms of arithmetic. It was always an aggregate of individuals, a sum of individuals, and nothing else, and 'every one in it counted for one and for not more than one.' Thus the *individual happiness* was the centre round which the state and other social institutions moved, and if they proved useless or baneful, they had no right to exist.

Mill certainly was a great apostle of Individualism and his 'Liberty' will ever be remembered as 'an eloquent and reasoned

J. S. Mill. appeal on behalf of a principle whose recognition Mill thought to be the most precious thing in

society, and has as such a permanent value and interest."<sup>8</sup> "The

<sup>7</sup> Sir F. Pollock: History of the Science of Politics, p. 107.

<sup>8</sup> A. D. Lindsay in Mill's Utilitarianism, Liberty and Representative Government (Everyman's Library)—Introduction, p. xvi.

object of this essay," writes Mill, "is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their member, is self protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because in the opinion of others, to do so would be wise, or even right. These are good reasons for remonstrating with him or reasoning with him, or persuading him or entreating him but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign."<sup>9</sup>

I have quoted this characteristic passage of Mill at length because it sets forth, in a nutshell, the whole of his doctrine of individualism.

He definitely sets down the limits of State Inter-  

 Mill's doctrine in  
 a nutshell
 

 ference with individual liberty and to him the only  
 ground for state action arises when self protec-  
 tion demands it, that is, when the individual's actions are such that  
 they are adversely affecting other individuals. Beyond this, the state  
 should not go, even though it may be in the interest of the individ-  
 ual himself. "The only freedom which deserves the name," says  
 he, "is that of pursuing our own good in our own way, so long as  
 we do not attempt to deprive others of theirs, or impede their efforts  
 to obtain it. Each is the proper guardian of his own health, whether

<sup>9</sup> Mill's Utilitarianism, etc. (Everyman's Library), pp. 72-73.

bodily or mental and spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest."<sup>10</sup>

After stating these basic principles, he considers the liberty of thought and discussion (which we have already considered in Chapter XIII), and maintains that the same

Liberty of thought and action. reasons which 'make it imperative that human

beings should be free to form opinions, and to express their opinions without reserve,' require that 'men be free to act upon their opinions . . . to carry these out in their lives, without hindrance, either physical or moral, from their fellow men, so long as it is at their own risk and peril.' Thus Mill emphasises the liberty of thought and action because he regards individuality as one of the elements of social well-being, and complains that 'individual spontaneity is hardly recognised by the common mode of thinking as having any intrinsic worth, or deserving any regard on its own account.'<sup>11</sup> He quotes Humboldt with approbation maintaining thereby that freedom and variety of situations create individual vigour and manifold diversity which combine themselves in originality.

The chief grounds of objections against state interference, Mill sets forth thus:<sup>12</sup>

**Mill's objections against state interference.** (1) *When the thing to be done is likely to be better done by individuals than by the government, for, one specially interested in a particular business or industry can better do a thing than the hired servants of government.*

(2) *In many cases, though individuals may not do the particular thing so well, on the average, as the officers of government, it is nevertheless desirable that it should be done by them, rather than by the government, as a means to their own mental education . . . a mode of strengthening their active faculties, exercising their judgment and giving them a fair knowledge of the subjects with which they are thus left to deal.*

<sup>10</sup> Mill's *Utilitarianism*, etc., pp. 75-76.

<sup>11</sup> *Ibid.*, p. 115.

<sup>12</sup> *Ibid.*, p. 164.

(3) *Leaving of things to government means the great evil of adding unnecessarily to its power.* Every function superadded to those already exercised by the government causes its influence over hopes and fears to be more widely diffused. and converts, more and more. the active and ambitious part of the public into hangers-on of the government. or of some party which aims at becoming the government. If the roads, the railways, the banks, the insurance offices, the great joint stock companies, the universities, and the public charities. were all of them branches of the government; if, in addition. the municipal corporations and local boards, with all that now devolves on them, became departments of the central administration; if the employees of all these different enterprises were appointed and paid by the government. and looked to the government for every rise in life, not all the freedom of the press and the popular constitution of the legislature would make this or any other country free otherwise than in name.

In these ways. Mill comes to regard the state as a necessary evil. He does not favour its complete abolition. He only wants it to check its activities. to remain within certain limits:

State a necessary evil. as he himself says. 'the mischief begins when. instead of calling forth the activity and powers of individuals. it substitutes its own activity for theirs, when. instead of informing, advising, and upon occasion. denouncing, it makes them work in fetters. or bids them stand aside and does their work instead of them.' To him, the worth of the state is in the long run the worth of the individuals composing it, and if it postpones the interests of their mental expansion and elevation. dwarfs them in order that they may be mere docile instruments in its hands even for beneficial purposes, it will in the end be no good. for the 'vital power' which keeps the wheels of government going on would be sadly lacking.

After Mill. Spencer is another great writer who stands for Individualism. His philosophy has been called 'an incongruous

mixture of natural rights and physiological metaphor.'<sup>13</sup> He interprets ethics and politics in terms of natural science using analogies from Biology and Physics, but the whole interpretation is bare and mechanical.

<sup>13</sup> Earnest Barker—From Spencer to To-day, p. 85.

It would take a long space to discuss his ideas which are diffused in several books. What we may do here is to state, in brief, the position he takes as regards the relations of the individual and the state. And in this the greatest thing of surprise to us is the fact that with the conception of social organism, and evolution as the basis, he reaches a conclusion which is entirely individualistic and which looks for the 'blessedness of final anarchy' as the ultimate goal. He divides the stages of the development of society into those of status and contract . . . the former being the military stage with its characteristic of *compulsory* co-operation, the latter industrial with its characteristic of *voluntary* co-operation. This shows that in the movement of the society towards progress there was less of integration and more of individuation, and as such the state functions and interferences would lessen day by day till there would come a period when there would usher in 'the blessedness of final anarchy.' Thus the function of the state according to Spencer, is negative, i.e., in securing to the individual such fields in which he may issue in a free energy of faculties, of course according to the law of equal freedom. In this way, Police, Army and Justice, and the maintenance of contracts are the only functions which the state may claim. The society, thus, in Spencer's philosophy in spite of all talk of social organism comes to be but an aggregate of individuals. It is, like Locke, a sort of joint-stock company in which every individual is pursuing his own happiness according to the law of equal freedom and the free energy of his faculties, and these are the 'natural rights' of individual.

Again, Spencer not only limits the claims of the state on the basis of Natural Rights; he also makes use of 'natural selection,' or the law of the 'survival of the fittest.' Like the operation of this law in the animal kingdom, the human world should also take cognizance of it because it is the supreme law of the creation. The state, therefore, should give no relief to the poor and the aged, the sick or the disabled; it should not even lay its hands upon education, for this action will interfere with the law of the survival of the fittest. There should be a struggle for existence and it is the fittest that will survive.

Survival of the fittest.



Besides Mill and Spencer who had advanced their theories from the point of ethics and science respectively, we may not forget to

**Adam Smith.** mention the political economists like Adam Smith who had greatly influenced the economic ideas both of Bentham and Mill, and even Spencer. To Adam Smith, enlightened self interest was to be the rule with every individual because it ultimately led to the good of the community itself. Every man would do that work well in which he was personally interested, and if he was left to himself, without any interference from without, he would be a greater gainer. In this way, if each is allowed to follow his pursuits according to his liking, the ultimate result will be, what Bentham termed, 'the greatest happiness of the greatest number.' Hence from the economic stand point it was pleaded that a policy of *laissez-faire* (let alone) will be in the highest interests of society. This is why 'free competition' came to be the very basis of economic individualism, for the individual free from the trammels of the state was always to remain in the advantage. And if even a few amassed wealth, because of superior energy, resolution or intellect, still it would not be baneful, for, on the whole, the wealth of the community had increased.

Thus, to summarise, the theory of individualism had been advocated from the three stand points of ethics, science and economics and it remained in vogue till the collectivist attitude of Idealism and Socialism discredited it as an unsound theory of politics.

What then, one may ask, were the weaknesses in the theory?<sup>14</sup>

In the first place, it placed too much reliance on the individual and expected too much of every body. It assumed that every individual was 'equally far-sighted' and possessed an 'equal capacity' to know and do what was really in his interest; further, that every individual had an 'equal power' and an 'equal freedom' of choice to fulfil his needs. In these ways, therefore, it tried to ignore the differences of intelligence, the will and the resolution of different men coupled with the complexities of one's social position. It is true Mill was special-

**Criticism of the theory.**

1 Too much reliance on the individual.

ly emphasising the free development of genius and originality, but genius meant 'thinking not unlike one another,' rather 'thinking one-self.' The doctrine specially broke down on its economic side, for the freedom of contract and competition resulted in the so-called wage-slavery and the rise of the capitalists. In this way, Individualism itself dug its own grave and prepared the way for an easy reception of Socialism. Further, its economic argument that even if some individuals amassed wealth at the expense of others, the community was ultimately the gainer in so far as the total wealth had increased, involved a fallacy in which the good of a part had been squared with that of the whole, and this gave to socialism the central point of attack upon the Individualistic system.

Individualism necessarily involved an abiding antithesis between the individual and the state and society in which he lives. Mill's idea

2. Antithesis that every increase in state power is a corresponding decrease of individual choice and spontaneity between the individual and the state, is too mechanical. After all, the individual has to live in society and state and both of them are necessary to maintain the conditions necessary for the free development of all.

Mill's division of man's actions into self regarding and other regarding again is unreal. How many actions of an individual can

3 Self regarding there be which only concern himself? Nearly all and other regarding his actions, more or less, affect others and are, actions, therefore, usually other regarding. The truth is

that Mill failed to reach an organic view of the society and the state. The state, to him, always remained an evil, though a necessary evil and the society a sum of individuals, an aggregate of atoms. He failed to reach a clear philosophy of rights because he built his political philosophy on an abstract individual and though, as Barker points out, he had raised the conception of liberty from the freedom of action in material pursuits to that of spiritual originality which is the source of individual vigour and manifold diversity, yet he remained a prophet of 'empty' liberty.<sup>15</sup> A positive conception of liberty could only be possible in a conception of social whole, of rights and obligations . . . a conception in which the false anti-

<sup>15</sup> E. Barker—From *Spencer to To-day*, p. 10.

thesis of the individual and the state disappears. Besides Mill this antithesis was all the more clear in Spencer. The very name of his book, *The Man Versus the State*, is an open testimony of his attitude, and his law of 'the survival of the fittest' is a mild re-statement of Hobbes' State of Nature.

## CHAPTER XVI

### IDEALISM

The Idealist theory of the state, so far as its modern origin is concerned, is the direct offspring of Rousseau's conception of the

**Its origin.** General Will, but ultimately it is connected with the philosophic theories of Plato and Aristotle.

Several characteristic Greek ideas formed the essential elements of modern Idealism.

The Greeks never differentiated between state and society. Polis was a word which stood both for the society and the state.

**Idealism and Greek thought:** Modern Idealists also do not differentiate between state and society and in this respect Hegel and Bosanquet are specially prominent. To Hegel,

the state represents the highest embodiment of social morality, and it carries the individual 'into the life of the universal substances.' Hence he comes to believe in the divinity of the nation. Similarly, Bosanquet regards the state as the guardian of the whole moral world, not a factor in it.

The Greeks, further, because of identifying state and society always regarded the state as a self-sufficing entity. This is too apparent in the creation of the Ideal Republic of

**1. No difference between state and society.** Plato, and in practice also, every Greek state had nothing to do with any other state. It existed by

**2. State and self-sufficing entity.** itself and for itself. Thus every state in ancient Greece was in the state of Nature as Hobbes pictured it and the only relation that subsisted between one state and another was one of indifference or hostility. Modern Idealists also magnify the state into the self-sufficing entity and Hegel goes even so far as to declare that 'the state of war shows the omnipotence of the state in its individuality.' But these remarks are not true of every Idealist writer. Kant and Green both recognize the claims of universalism, of humanity at large as against the particularism of the state, and both of them present a critical front to this new Leviathan.

The Greeks again held that the state existed not only to make life possible, but to make life good. Its great end was social morality, a life of justice and virtue. To modern

3. State exists for good life. Idealists also, the state was the highest expression of social morality and it existed to create and maintain those conditions in which free moral life was possible.

The Greeks regarded the state as a moral organism and specially Plato emphasised the partnership of individuals in a life of virtue.

4. State a moral organism. Just as in his Republic every individual had to perform his bit for the common good, in the same way Bradley emphasises 'My station and its duties.' This is why he also regards the state as a moral organism of which every individual is an inseparable part, depending for his being upon the life of the whole.

The Greeks started with the premise that man is a social animal and therefore it was but natural for him to live in the state. He

5. Man a social animal. could not do without it, unless of course if he was a god or a beast. Hence for the development of human personality the state is but an unavoidable necessity: it raises man's moral stature. While he owes duties to the state: the state also owes the duty of protection to him. Modern Idealists, as we shall presently see, also emphasise the fact that personality can only develop within the state, and that the full moral development of the individual can only be in and through the community.

In these ways, therefore, modern Idealism drew much of its inspiration from Greek political philosophy. Idealism and Rousseau. We may now look into its indebtedness to Rousseau who has been called the father of modern Political Philosophy.

The Idealists start with the conception of 'moral freedom' as the essential quality of human beings and this is a conception which they have learnt from Rousseau. The freedom of the state of Nature was to Rousseau in a certain sense unreal: it was the contract which conferred upon man the blessings of civil and moral liberty. "The passage

1. Moral freedom.

from the state of nature to the civil state," says Rousseau "produces a very remarkable change in man, by substituting justice for instinct in his conduct, and giving his actions the morality they had formerly lacked. Then only, when the voice of duty takes the place of physical impulses and right of appetite, does man, who so far had considered only himself, find that he is forced to act on different principles, and to consult his reasoning before listening to his inclinations. Although, in this state, he deprives himself of some advantages which he got from nature, he gains in return others so great, his faculties are so stimulated and developed, his ideas so extended, his feelings so ennobled, and his whole soul so uplifted, that, did not the abuses of this new condition often degrade him below that which he left, he would be bound to bless continually the happy moment which took him from it for ever, and, instead of a stupid and unimaginative animal, made him an intelligent being and a man."<sup>1</sup>

This passage clearly lays down that bare animal existence and the freedom enjoyed in it is no real freedom for man. Man is man only when he is living along with other men. An atomic existence may be one of instinct, impulses and appetites and inclinations and therefore brute-like and beastly: it is not one of justice, morality, duty and reason for they involve relation of man to man. Hence 'animal freedom' is to be distinguished from 'human freedom' which is only possible in a society of men.

In modern times, the conception of 'moral freedom' was certainly the contribution of Rousseau, but it was not a new idea.

Aristotle's dictum that man is a social animal Rousseau's greatness, expressed this truth long ago. Rousseau's greatness lies in re-interpreting this doctrine in modern times according to the needs of the situation, that is, in terms of freedom which had come to be the characteristic problem of man in the 18th century and has remained so ever since.

The Idealists, further, base the whole of their political philosophy on the nature of reason and will, and both of these were first

<sup>1</sup> G. D. H. Cole's Edition of Social Contract, pp. 18-19.

explained in modern times by Rousseau. It is true that Plato was the first writer who emphasised the fact that justice

**2. Reason and Will.** or social morality was only possible when appetite and spirit in man were controlled by Reason, possible when appetite and spirit in man were controlled by Reason, or in society, philosophers were kings and kings, philosophers. Still in modern times it was reserved for Rousseau to carry this thesis to its logical conclusion, and it was from him that it was taken up by the Idealists.

We have just seen how Rousseau thinks that it is the Reason which differentiates man from a 'stupid and unimaginative animal' and how it makes him 'an intelligent being.' It

Rousseau's General Will. is the mark which distinguishes man from the whole of the brute creation. Thus the dignity of manhood lies in Reason and it is its guidance which makes human life sublime. Again, he divided human will into two . . . the particular will and the General Will. The particular will represents the lower or selfish self of man which is always actuated by desires and inclinations. The General will represents the higher self or the disinterested self of man always wishing the common good, never changing and always permanent, pure, constant and unalterable. It is always the right and self conscious will: it never errs, though it is possible that because of lack of enlightenment it may be observed, as Rousseau puts it, 'Of itself, the people wills always the good, but of itself it by no means always sees it. The general will is always in the right, but the judgment which guides it is not always enlightened . . . the individuals see the good they reject; the public wills the good it does not see. All stand equally in need of guidance. The former must be compelled to bring their wills into conformity with their reason; the latter must be taught to know what it wills. If that is done, public enlightenment leads to the union of understanding and will in the social body: the parts are made to work exactly together, and the whole is raised to its highest power.'<sup>2</sup> Thus the General Will is always a self conscious unity, universal in character and the source of all law.

Modern Idealists too have based their theories on reason and

<sup>2</sup> G. D. H. Cole's Edition of Social Contract, p. 34.

will. In Kant, man's reason gives law unto himself according to a universal law of right. His will is an autonomous will, legislating universally. Hence self-interest and desires are opposed to duty which is but reason's universal command. In Hegel, the thinking self of man must find its objective manifestation and it is the will that brings about the outer world in harmony with the inner world of thought. Hence the state in Hegel is but a realisation of the free will. Green is still clearer in his exposition of reason and will. 'The condition of a moral life is the possession of will and reason. Will is the capacity in a man of being determined to action by the idea of a possible satisfaction of himself. Practical reason is the capacity in a man of conceiving the perfection of his nature as an object to be attained by action. All moral ideas have their origin in reason, i.e., in the idea of a possible self perfection, to be attained by the moral agent.'<sup>3</sup> And this 'self perfection' to Green can be attained by the institutions of civil life which give reality to these capacities of will and reason. Lastly, Bosanquet has fully copied Rousseau when he speaks in terms of actual will and real will.

Further, modern Idealists have taken the idea of the state as a unity or a metaphysical entity from Rousseau. That writer had already emphasised that the contract had created a moral and collective body, which was but a public person, having a unity and will of its own. The General Will which was the state was indivisible and inalienable. In Kant, therefore, the state only comes in to enforce the laws which are but the result of the universal legislative will. In Hegel, it is but an outward expression of free will which creates social morality. This social morality is in the highest way expressed by the state which therefore comes to be in the first instance its product and then its guarantor. Thus the state acquires a personality of its own. Green also entrusts to the state the maintenance of those conditions which make common good possible, but he does not so magnify it as to make it a separate entity. In Bosanquet, however, we find Hegelianism at its height. The state has a mind of its own, and a

<sup>3</sup> T. H. Green: Lectures on the Principles of Political Obligation, p. 31.



personality of its own. It is not a factor in the moral world: it is its guardian. In this way, we find the apotheosis of the idealistic metaphysics reached in the conception of the state as the only entity.

From what we have seen of this dependence of Idealist political philosophy upon the ideas of Greek Philosophers and Rousseau, we may easily deduce the basic premises that underlie Idealism.<sup>4</sup>

There is no antithesis between the individual and the state. On the other hand, a vital relation exists between the individual and his community . . . both are co-existing and co-

1. No antithesis between individual and state. extensive. The individual apart from society

has no meaning; it is only in society that he can develop his personality and realise himself. Full moral development or self-perfection can only be acquired in and through the community and this requires the due performance of one's functions or duties to the community.

<sup>4</sup> In fact, the various names of the theory of Idealism give us its essential characteristics.

In the first place, Idealism itself, as opposed to realism, stands for that political theory which deals with the relation of the individual and the state as it ought to be, and not as it is.

Secondly, it has also been called Absolutism or the Absolutist theory of the state. Hence as opposed to individualism which stands for the rights and liberty of the individual, Absolutism stands for authority and order and, therefore, for the power of the community or state over the individual. It is because of this power of the collectivity over the individual that Ivor Brown prefers to call it, 'Collectivism'.

Thirdly, it has also been called 'Intellectualism' because its sole guide is Reason and it entirely ignores the irrational elements of human psychology, that is, it does not take account of instincts, emotions and impulses.

Lastly, it has been called the 'Metaphysical theory of the state' by which is meant that it regards the state as mind, that is, state to it is a moral person having its own soul, its own spirit and therefore it is a separate entity. It is in this sense that Bosanquet calls it the 'Philosophical theory of the state.'

Thus, to sum up, we may say that these various names of Idealism give us the following as its characteristics.

- (1) It deals with the relation of the individual and the state as it ought to be.
- (2) It stands for the power of the community and the state.
- (3) It bases itself on reason only.
- (4) It treats the state as mind.

The life of the individual, his rights and liberty, all depend upon his being the part and parcel of the society. His claims of life,

liberty and property, are not pre-social: they are  
 2. Rights of man. real claims only because of his membership in society. It is not *separateness* with other individuals that determines rights: it is *relation* with them that makes them possible.

The community has the duty to guarantee to  
 3. The duty of the community. the individuals all their rights, that is, those conditions which are necessary to the full moral development of their personalities. Only in this way, could the common good be achieved.

Thus the central point in Idealist political philosophy is the *exaltation of the community or the state* which was the source as well as the guardian of the common good. There

**The central point.** is not so much emphasis on the *rights* of the individuals as much as it is on his *duties* or functions to the common whole. In the Utilitarian theory, the state and its institutions were to be tied round the good of the individual. Similarly, in Individualism, the individual was the centre round which the state moved. But in Idealism the process has been reversed. The state is there co-existing with the individuals who have to find out their function or duty within it, that is, with the state as the centre, they have to fit themselves in according to their capacities.

Among the Idealist writers whom we have already mentioned, Hegel in Germany and Green in England have been considered as the greatest of Idealists, but here we will only briefly  
**T. H. Green.** consider Green as his theory commends most to the civilized world.

The state to Green is also the product of reason, for it is reason which tells man of moral freedom as his essential quality. Self

perfection or self realisation can only be along  
 State and hindering of hindrances. with other selves which means relationship.

Relationship involves claims and counter-claims which are rights and it is to adjust these that the state is necessary. Thus the state is meant to create those opportunities which are necessary to the full moral development of individuals. Its business is the 'hindering of hindrances' that come in the way of the indivi-

dual. Thus the state should not interfere with the self determination of will which is trying to realise itself: it should clear its path from all obstacles. Thus the sovereign power in the state is not based on mere force doing every thing by sheer compulsion; it is based on will, for behind the actual sovereign or the force wielding authority there is always that common conviction of a common good which Rousseau termed the General Will. It is true that there may arise an occasion when the individual feels that his ideal rights are being trampled upon by the actual sovereign and therefore may be constrained to resist, but this resistance, to Green, is not a mere plaything or joke: it requires serious thought and careful consideration of consequences before it is resorted to.

In its relation to other associations and other states, the state to Green is not a Leviathan. It has the right of adjustment in case of

associations and is not in a relation of hostility to other states which relation is to be based on a universal brotherhood. The right to life as being universal demands a universal society and as such any war of state and state represents their imperfection.

But it is the internal action of the state which is more concerned with happiness. The punishment which the state awards should

be proportionate and reformatory, that is, it should clear the ground for those conditions which make free moral life possible. In case of

ignorance, pauperism and drink the state should interfere because it must remove the obstacles that lie in the way of the self-realisation of the individual. Hence it should make education compulsory, do away with chances of intemperance by checking the growth of liquor shops, and forbid reckless beggary by providing certain pursuits which people may usefully take up. Green even justified 'capital' because it was being constantly distributed to the community through the wages of labourers, but he was against landed property.

These, in brief, are the political ideas of T. H. Green, but his attitude against the state is as grudging and critical as that of Kant. The only profound Idealists are Hegel, Bosanquet and Bradley.

As we have seen in the premises of Idealism, the whole theory is based on very strong foundations. We cannot easily refute it and

**Idealism and Social Psycho-** yet in our own times the development of social psychology has blown it up. Its metaphysical **logy.** bases have been cleft asunder and we have come

to hold that human affairs are not always done with that absolute rationality which the Idealists emphasised. The mistake which the Idealists committed was that they *idealised the real*, that is, they wanted to suggest what *ought to be* in human affairs, but their logic made 'the existing' as the *ought to be*. *The present to them came to be equal to the future*. The result was that instead of becoming a source of reform or radicalism, Idealism became a conservative creed standing for the status quo in civilization.

## CHAPTER XVII

### SOCIALISM

#### (a) Its Origin, Meaning and Nature:

Besides Idealism which goes counter to all the premises of Individualism, Socialism is another theory which exalts the community as against the individual. Kirkup<sup>1</sup> tells us that the term socialism was first used in 'The Poor Man's Guardian' in 1833 for the Owenite theory of social reconstruction. Since then there has been no unanimity as regards its meaning. Some say there are 'fifty seven' varieties of Socialism and in 1892 'Le Figaro' of Paris published *six hundred* definitions of Socialism. Bebel made it a philosophy of every branch of human life when he said 'It is in reality an entire world philosophy: in religion it means atheism, in the state a democratic republic, in industry a popular collectivism, in ethics a measureless optimism, in metaphysics a naturalistic materialism, in the home an almost loosening of family ties and of the marriage bond.'<sup>2</sup> Such statements instead of clearing its meaning have really confused its real significance and we are led to believe that *there are as many socialisms as there are socialists* or that *socialists themselves do not know what Socialism is.*<sup>3</sup>

In its most general sense, Socialism may be regarded as pure collectivism, a view of life in which society is sovereign over the individual and the latter is but an inseparable part of the whole. In this sense, even Rousseau was a socialist. But this is not the meaning in which

**Its real meaning.**

<sup>1</sup> Kirkup: A History of Socialism—Introduction.

<sup>2</sup> F. J. C. Hearnshaw: A Survey of Socialism, p. 23.

<sup>3</sup> Dr. A. Schaffle in 'The Quintessence of Socialism,' says—"Not only those who oppose and scorn the new gospel but also even many of those who are believers in it, have themselves no true idea, often not even the most distant conception, of what it really is that they fear or detest, that they despise or extol to the clouds," pp. 1-2.

Socialism is technically used in Political Philosophy. Here it is connected with the doctrines of Karl Marx. It is true, theories of Communism were held and preached in all ages, but in this essay we are not directly connected with them. They were more or less utopian, while we are concerned with modern Socialism (also called Scientific Socialism), which is both a political theory and a movement.<sup>4</sup> It is, in essence, an economic doctrine related specially to the economic ills of the present industrial civilization.<sup>5</sup> As Spargo says, no definition of Socialism can be complete which does not consider it as (a) a criticism of existing society, (b) a philosophy of social evolution, (c) a social forecast or ideal and (d) a movement for the attainment of the ideal. It is, therefore, "a criticism of existing society which attributes most of the poverty, vice and crime and other social evils of to-day to the fact that through the private or class ownership of the social forces of production and exchange, the actual producers of wealth are exploited by a class of non-producers; a theory of social evolution according to which the rate and direction of social evolution are mainly determined by the development of the economic factors of production, distribution and exchange; a social forecast that the next epoch in the evolution of society will be distinguished by the social ownership and control of the principal agencies of production and exchange and by an equalization of opportunity as a result of this socialization; and movement primarily consisting of the members of the wealth producing class, which seeks to control all the powers of the state and to bring about the collective ownership and control of the principal means of production and exchange, in order that poverty, class antagonisms, vice and other ill results of the existing social system may be abolished, and

<sup>4</sup> H. J. Laski in his 'Communism' on p. 22 says: "From whatever aspect it be regarded, the work of Karl Marx is an epoch in the History of Social Philosophy. The vital fact about him is that he found communism a chaos and left it a movement." Again, on pp. 26-26, he considers Marxism in four distinct parts: (i) a philosophy of history, (ii) a theory of social development, (iii) a tactic, and (iv) an economic theory.

<sup>5</sup> A. Schaffle: *The Quintessence of Socialism*, p. 3; also p. 20 where he says "The *Alpha* and *Omega* of socialism is the transformation of private and competing capitals into a united collective capital."

that a new and better social system may be attained.”<sup>6</sup> Socialists from the very beginning, as we shall see, have been divided into Evolutionary and Revolutionary but there is not so much difference among them on doctrine as it is *on machinery and method*. The object is, on the whole, common to them and may be stated thus . . . ‘the socialization of the means of production, distribution and exchange, to be controlled in the interest of the community, and complete emancipation of labour from the domination of capitalism and land-lordism, with the establishment of social and economic equality of the sexes.’<sup>7</sup>

But before we examine this object or definition of Socialism, we must look first of all to the theories of Karl Marx who is the father and founder of Modern Socialism. To begin with his Economic Interpretation of History, a doctrine which he had begun to preach as early as 1843-44 and which had been definitely set forth and developed in the “Communist Manifesto”<sup>8</sup> published in 1848.

“Legal relations as well as forms of state,” said Marx. “could neither be understood by themselves, nor explained by the so-called general progress of the human mind, but that they are rooted in the material conditions of life . . . The mode of production in material life determines the general character of the social, political and spiritual processes of life. It is not the consciousness of men that determines their existence, but on the contrary, their social existence determines their conscious-

<sup>6</sup> John Spargo: *Elements of Socialism—Introduction*, p. 5.

<sup>7</sup> W. G. Towler and W. Ray: *Socialism its promise and failure*, p. 1.

<sup>8</sup> The four main ideas of the Communist Manifesto, were:

- (i) History of the evolution of the Middle class, modern capitalism and the rise of the proletariat.
- (ii) The doctrine of class war and the role of the proletariat.
- (iii) The revolutionary action to be taken up by the communist.
- (iv) And a criticism of Utopian writers of communism who had preceded Marx. It ended with an appeal to workers to destroy the capitalist order with the remark, ‘Workers of every land, unite.’

M. Beer: *The Life and Teaching of Karl Mark*, p. 43.

ness."<sup>9</sup> From age to age, men have held various and changing opinions regarding the state and governments, trade and industry,

art and philosophy and the customs, manners, traditions, religion and morality. These have

*Production and productive forces.* always been the result of the *material conditions* of life, e.g., of environment, production, distribution and exchange, and of them, production has always been the most important. Production itself has always been determined by the *nature of productive forces* which are of two kinds, animate and inanimate. The former stands for labourers, inventors, artisans and discoverers and the latter for tools, machines, soil, water, climate and raw materials. The inanimate productive forces are thus merely auxiliary to the animate and hence they are most important, that is, *men* are more important than the *things*.

But men themselves work under certain *conditions* such as laws and customs, classes and castes, and all these are of their own crea-

*Conditions of production.* tion so that we may rightly conclude that the social political and religious institutions of men are direct offsprings of the reactions of productive forces. Hence material conditions come to be the basis of our social structure.

In primitive life, men lived in totems on the basis of blood relationship. Their religion, law and morality reflected their environment. In patriarchal society, the pastoral

*Material conditions and social structure.* pursuits and the rise of agriculture totally changed the old institutions. This was specially true of Romans whose gods and festivals reflected their agricultural civilisation. This is still true and has always been true of the Hindus whose gods and goddesses, rites and ceremonies, holy-days and festivals depict an agricultural civilization. Similarly, the Feudal society which had come to be based on the possession of land by nobles in a system of hierarchy influenced even the church so much that it had also come to have a graded organization. The rise of the Middle Class then tried to do away with every vestige of communal ownership or feudal rights and supplant private property as its basis. In

<sup>9</sup> Quoted in John Spargo: *The Elements of Socialism*, p. 77.



short, every new change in the material conditions of life brought a corresponding change in men's thought and action, in his institutions of government, religion and philosophy. This is, as Beer terms it, the 'statics' of society. We have now to see its 'dynamics'<sup>10</sup> that is, we have to see why, after all, all these changes come about.

The changes from one form to another, according to Marx, depend upon two forces, the technical changes in the productive forces and the struggle between the social classes. The

**Causes of change:**  
(i) **Technical changes.** effect of technical changes in transforming civilization, in every period of its existence, can be easily seen if we note how the discovery of gun-powder gave a death blow to the feudal system, the mariner's compass and the consequent geographical discoveries transformed the world itself and finally the Industrial Revolution and the growth of scientific inventions altered the whole character of human life and thought.

On the social classes, which Marx specially emphasises, the effect of such changes had always been enormous. When the old order began to totter on the advent of new circumstances, it always tried to check their onslaught for they undermined its influence and privileges.

(ii) **The struggle of classes.** The result was conflict with the new forces which however always won, and created new conditions suiting their requirements. In this way, there have always appeared contradictions in human history and it is these which Marx calls the struggle of classes or the doctrine of class-war. In the present civilization also, according to him, the rise of the capitalist class and the working classes depicted this contradiction, and hence the next phase in human evolution was bound to result in the dictatorship of the *Proletariat* which would again refashion the social institutions according to its environments. Thus Marx himself summarises his contribution to the Economic Interpretation of History:<sup>11</sup>

<sup>10</sup> M. Beer: The Life and Teaching of Karl Marx, p. 66.

<sup>11</sup> M. Beer: The Life and Teaching of Karl Marx, p. 85. See also John Spargo: Elements of Socialism, pp. 100-101, where he summarises in detail under five points these three stages of Marx's contribution.

Marx's contribution  
to Economic Inter-  
pretation of History.

- (1) That the existence of classes is bound up with certain phases of material production.
- (2) That class struggle necessarily leads to the dictatorship of the proletariat.
- (3) That this dictatorship is but the transition to the abolition of all classes and to the creation of a society of free and equals.

**2. The doctrine  
of class war:**  
The stages of  
Capital.

Thus bound up with his doctrine of the Economic Interpretation of History, as we have seen, is the doctrine of the class war, and the evolution of capital and industry and this too has passed through the following stages.<sup>12</sup>

In the first place, *there was a period of handicrafts or domestic industry* in which the craftsmen *owned their instruments and the product of their labour was theirs*. There was no employer to make capital out of their labour that is, there was no so-called capitalist.

Secondly, *there was a period of manufactures* and division of labour in which 'masters' began to employ men on wages and make profits. The labourers *no longer worked at their own places*, though they had their own instruments. They had to work at the house of the master who was not necessarily a craftsman. He simply invested capital. This is why Marx called it 'merchant's capital,' i.e., *capital invested in raw materials* rather than in instruments.

Thirdly, *there was a period of 'great industry'* ushered in by the Industrial Revolution, a period which has not yet ended and is still in full force. Its chief characteristic has been the '*Factory work*.' The labourers *work at the capitalist's factory with the capitalist's own instruments*, and thus *sell their labour* for the wages; so that they have *neither their own instruments, nor have any control over the product of their labour*.

Lastly, the latest phase of this development is the *concentration of capital* in which *capital is breeding capital* resulting in monopoly so that a vast proletariat of the have-nots has been created, who,

<sup>12</sup> W. Graham: *Socialism, New and Old*, p. 132.

Also John Spargo: *Elements of Socialism*, p. 157.

dissatisfied with the present arrangements of society, will rise in revolt and bring about a change by a seizure of power.

Besides the theories of the Economic Interpretation of History and of Class War, another doctrine of Marx which forms the basis of Socialism is his Theory of the Surplus Value.

**3. The Theory of Surplus Value.** It means that 'labour' is the *only* source of wealth and the value of commodities can only be determined by the labour time spent on their production. To take an illustration, suppose a labourer has been employed in a factory on ten annas a day. The things that are made by him *in the whole day* are sold in the market for two rupees. Thus the capitalist who employed him gets one rupee and six annas after paying only ten annas to the labourer. The sum of one rupee and six annas, therefore, is the surplus value which has been usurped by the capitalist because of his advantageous position and the poverty of the labourer who, if he had worked independently, would have got even this sum of money. In this way, the surplus value comes to be the unearned income of the capitalist for which he never worked and therefore he did not deserve the lion's share which he has managed to get.

But as can be readily seen, this interpretation of Marx is half-hearted and partial. He totally ignores the *investment* of capital by the capitalist . . . by buying the raw materials, in providing machines and instruments, and in incurring expenditure on the management of the factory itself. And yet in spite of this defect, and along with his doctrines of Economic Interpretation of History and class war, the theory of surplus value came to be one of the 'fundamental principles' of Socialism.

Having examined the foundations of Socialism we may now turn to its elements which Prof. R. T. Ely states thus:<sup>13</sup> In the first place, Socialism aims at *the common ownership of the material instruments of production*, which means that the collectivity or the state should take over charge of land and capital. Private 'rate' and 'interest' should cease and even the Post Offices, the Railways, and Electric and Water

**Elements of Socialism:**

<sup>13</sup> R. T. Ely: *Socialism, its nature, strength and weakness*, pp. 9—17.

arrangements should not be given over to private individuals or companies: they should be directly taken up and administered by the state.

Secondly, Socialism aspires to *the common management of production*. This means that the state management of utilities, while displacing the private captains of industry, will result in producing things *according to public needs*. Thus competition will be eradicated and waste avoided as there would be no overproduction. Further, the state would look after the fact that there should be no unemployment, and it would provide work to all.

Thirdly, Socialism wants *the distribution of income by the common authority*, that is, the so-called 'national dividend'<sup>14</sup> will be

distributed to the people at large according to  
 Standard of distributive justice. *some standard* of distributive justice; but the

question of this standard is the greatest point of disagreement among all socialists. There are those who stand for *equality in quality and quantity of goods* to all thereby making no difference between man and man. There are others who say that the income of each should be *according to capacity* and the highest position should be given to the highest capacity. The society was, therefore, to be a hierarchy of capacities. There are still others who maintain that division of income according to abilities would still create classes in society . . . a thing which it is the purpose of Socialism not only to avoid, but to destroy. Hence according to them, the distribution should proceed *according to the needs of the individual*. Thus the formula 'from each according to capacity, to each according to needs' would most satisfactorily meet the ends of social justice. Lastly, there are those who stand for *equality of income of each individual in the sense of equality in value* and these values will be represented by the most diverse of goods and services, for services done by individuals according to their strength have substantially equal value. In this way, they hope, not only the distribution will be according to needs, but each individual will also get the full

<sup>14</sup> 'National dividend' is 'that part of the wealth produced by society which may be used for enjoyment, after the material instruments of production have been maintained and suitably improved and extended,' vide R. T. Ely: Socialism, its nature, strength and weakness, pp. 13-14.

product of his labour. Thus Socialism finds the question of the distribution of income by the common authority as the most difficult of all its problems.

Fourthly, Socialism aims at the *abolition of private property*. This does not mean that all property will be banned under Socialism. It means simply that all those things which are *socially useful* would come under the control of the state or society, and by 'socially useful' the socialists mean those things which create distinctions of rich and poor, of high and low in society. Thus private property in insignificant things will be allowed by Socialism. To take an illustration, we may fairly say that the Socialist state would not allow 'motor cars' to the individual as private property for they give some air of importance or superiority to him over others: it might allow a 'bicycle' or a 'bullock cart' as something insignificant in creating any social distinction.

Besides Prof. Ely, Prof. Hearnshaw<sup>1</sup> has also summarised the principles of socialism under six 'Es' . . . viz., the exaltation of the community above the individual, the equalization of human conditions, the elimination of the capitalist, the expropriation of the landlord, the extinction of private enterprise and the eradication of competition, but all these have been already covered by the four elements we have just considered and therefore need no further explanation.

**Hearnshaw's  
summary of the  
principles of  
Socialism.**

### (b) The Evolutionary School:

After dealing with the origin, meaning and nature of Socialism, we may now take up its Evolutionary and Revolutionary schools of which mention has already been made, and thus trace the various kinds of Socialism as they are being held and preached since the times of Marx.

**The schools.**

The Evolutionary school stands for the realization of Socialism by means of reforms in the present structure of society according to the ideals and purposes of that movement. They stand for ordered progress to be achieved through a slow move from precedent to precedent. They

**The Evolu-  
tionary school.**

<sup>1</sup> F. J. C. Hearnshaw: A Survey of Socialism, p. 34.

do not believe in revolution and destruction: they think that the best way of ushering in the new regime lies through a process of gradual advance, stage by stage and instalment by instalment.

Among the most important of Evolutionary Socialists are the Fabians . . . a school of thinkers who have clothed the doctrine of

**Fabianism.** Socialism with the characteristic English caution

and conservatism and its great writers have been the late Professor Graham Wallas and Mrs. Annie Besant together with Lord Olivier, Sydney Webb (now Lord Passfield) and Bernard Shaw. The idea of ordered progress for the realization of Socialism that they preached can be well grasped by the 'motto' of Fabianism which also explains its meaning. It runs thus: "*For*

*the right moment you must wait, as Fabius did most patiently when warring against Hannibal, though many censured his delays, but when the time comes you must strike hard as Fabius did, or your waiting will be in vain or fruitless.*"<sup>16</sup>

In this way, Fabianism from its very nature came to be educational. It began to be preached through platform speeches,

through tracts and articles and through manifestoes so that 'propaganda' of its doctrines came to be the very basis of its popularity. It tried to win the educated classes through the 'permeation' of its ideas in the length and breadth of the land. It was because of this policy of permeation that the 'Fabian Essays'<sup>17</sup> were published in England in 1889.

The Fabians contemplate a transitional stage in the transformation of the present society when the onslaught of socialism will put

an end to it and usher in the new era. To bring in the new order of things they have proposed in the first place, the gradual extension of franchise so that a real democracy may come to exist and the idea of class

**Its principles.**

(i) Gradual extension of franchise.

<sup>16</sup> Kirkup: A History of Socialism, Chapter XIV.

<sup>17</sup> These 'Essays' contain seven lectures. Four of them deal with the historical economic, industrial and moral bases of Socialism. The student may, therefore, either read the 'Essays' themselves, or at least, he may look into Chapter VIII of H. W. Laidler's 'A History of Socialist Thought' for a good analysis or summary of them.

domination or exploitation may disappear. The present class state must become a truly democratic state if the Fabian ideas are to be realized and socialism established. Secondly, they have emphasised

that 'rent and interest' which are the unearned income of landholders and capitalists should be transferred to the society. They specially attack the landlords because they receive the 'rent' from their tenants without having done anything to deserve that income. They regard all wealth as the creation of society and must therefore be owned and administered by the society. Thirdly, they have made

it clear that amateur government as it exists to-day will not suit the society of the future which they are trying to realize. They believe in 'expert government' . . . in a government of the aristocracy of talent. Only then will the real purposes of the modern complex society would be realized. Lastly, they have set forth an

organic conception of society as against the capitalistic individualism of to-day in which the survival of the fittest is the rule rather than the exception, that is, they have discarded the idea of selfish atoms profiting themselves at the expense of the whole society. They regard society as a living organism in which every member will do what he knows best, and hence every activity of social life will be so regulated by the state that in the end it may result in the general interest of society as a whole and may not in any sense advance any class or selfish interests.

These, then, are the cardinal features<sup>18</sup> of Fabianism, which it tries to realize not by revolution but by a gradual process of evolution. The reforms that it proposes should begin with *municipalization* and end in complete *nationalization*. The Fabians, therefore, would first of all capture the municipalities which would take away all such enterprises as electric light and water supply from

**Fabianism and  
Representative  
Democracy.**

first of all capture the municipalities which would take away all such enterprises as electric light and water supply from

<sup>18</sup> F. J. C. Hearnshaw in his 'A Survey of Socialism,' pp. 296—98 has graphically summarised the various characteristic features of Fabianism. Thus he says:

(i) In three fundamentals, it definitely departed from the dogma of Marx: first, it entirely repudiated the materialistic conception of history and the economic

private companies and run themselves. If these experiments prove successful, they would be extended to wider areas, say, the provinces, and then if again successful, they would be extended to the central government of the whole country. In this way, the Fabians by their successes hope to win over popular support and think that once this is achieved there will remain no hindrance to check the onslaught of socialism.

Besides Fabianism, the Revisionism of Bernstein also falls under the Evolutionary school of Socialism. Bernstein published his **Revisionism.** Evolutionary Socialism in 1899 in Germany and criticized nearly all the basic ideas of Marx, thus departing fundamentally from all the accepted canons of Socialism.<sup>19</sup>

In the first place, he regarded the materialistic or Economic Interpretation of History as having gone too far as an explanation of the development of society or social classes, and *pointed out that the part of law and morals, of historical and religious traditions in*

determinism; secondly, it wholly rejected both the principle and the practice of the class war; and thirdly, it completely abandoned the labour theory of value.

(ii) In three further important particulars, Fabian Socialism diverged from the Marxian dogma: first, it took up a notably different attitude towards the state; it did not expect it to wither and disappear at the dawn of the socialist day, but on the other hand, proposed to make it the main organ of the permanent administration of the co-operative commonwealth, secondly, it substituted evolution for revolution, constitutional method for proletarian violence; and thirdly, it advocated reform as opposed to destruction, growing amelioration as opposed to increasing misery, political action as opposed to industrial action.

(iii) Much of Marxism as the Fabians had abandoned or modified, they still clung to three things, one error, one folly, and one illusion. First, they clung to the surplus value fallacy; secondly, they placed the elimination of the capitalist and the expropriation of the landlord in the forefront of their programme; and thirdly, they looked for the complete reconstruction of society on a collectivist, co-operative and non-competitive basis, all private enterprise having been suppressed.

<sup>19</sup> F. J. C. Hearnshaw in *A Survey of Socialism* on p. 289 says:

"Bernstein discusses and rejects (1) the materialistic conception of History; (2) economic determinism; (3) the doctrine of the class war; (4) the labour theory of value; (5) the dogma of surplus value; (6) the law of capitalistic concentration; (7) the theory of increasing misery and cumulative crisis; (8) the social revolution and the dictatorship of the proletariat. He declares for constitutional methods, national democracy, social reform, evolutionary progress."



*bringing about changes in the structure of society from time to time has not only been minimized but completely ignored by Marx.*

Secondly, he did not agree with the class war thesis of Marx who held that in the present condition of society there was bound to be a conflict between the proletariat and the capitalist, a conflict in which the proletariat would win and establish their dictatorship. Bernstein pointed out that the conflict might come and the proletariat dictatorship established, but as soon as this was done, there would be no class war and therefore no class state. Why then are Socialists always thinking of a period of transition to realize real Socialism which they call Communism? Lastly, *he exposed the falsity of the theory of surplus value* according to which labour was the *only* source of wealth and pointed out that in producing anything it was not simply labour which was to be counted, but other things as well ought not to be ignored, *viz.*, the quantity of material used, the amount of capital employed and the quality of executive and directive intelligence engaged. Thus it was not simply the labourer who had produced the thing, the material, the owner, and the management had also contributed enormously to its production. Hence the *value* of a thing . . . which involves so many factors . . . should be taken away *not simply* by the labourer as Marx would suggest, but was to be shared by other elements as well.

In this way, Bernstein modified nearly all the premises of Socialism and his ideas were at once taken up by a political party in Germany and until now form the creed of the Social Democratic Organization in that country.

### (c) The Revolutionary School.

Unlike the Evolutionary school, the Revolutionary school does not believe in a policy of permeation or educational propaganda of its doctrines: it believes in revolution or other aggressive methods of attack against the Capitalistic system. It wants to uproot the present and refashion the future in the light of its own doctrines. It has no patience to wait and see: it exhorts for immediate action. But while there is this unanimity amongst its various strands regarding their

**Its aims and method.**

aims and objects . . . the quickest method to end the present system . . . they differ as to the road they should travel to reach the goal. It is this divergence amongst them that has given rise to the different kinds of revolutionary socialism which we are now going to study. To begin with syndicalism.

The word 'Syndicalism'<sup>20</sup> comes from the French word 'Syndica' which is a local organisation of a single industry. Hence Syndicalism stands for a programme of trade union action to end the capitalistic system. It demands

**1. Syndicalism.** the organisation of each industry *under the workers* of that industry. These local unions are to be further organised in trades Councils and then all of these are to be federated in a single national organisation so that the syndicalist state comes to be a Workers' state. Each union of workers is to control the means of production so that the proletariat becomes freely organised from 'a Self Governing Workshop to a National Federation.' In this way Syndicalism comes to be a one sided organisation, that is, *of workers only*. It does not include the whole community, though the syndicalist state *would do good to the whole*. But how are we to believe in the moral goodness of those who having based themselves on a theory of class war have created only a class state?

Syndicalism thus comes to be very different<sup>21</sup> from Socialism. In the first place, *socialism believes in political and trade union*

<sup>20</sup> In fact Syndicalism is a French movement, though it is found in Italy and other places also. In France in 1895 seven hundred syndicates were federated in a confederation Generale de Travail (C. G. T.). Vide R. MacDonald: Syndicalism, p. 1. Also B. Russel: Roads to Freedom, p. 76.

<sup>21</sup> Though very different from Socialism, it does not mean that Syndicalism has nothing common with it. As Hearnshaw has remarked, the creed implicit, if not explicit, in Syndicalism, is the creed of the communist manifesto. Firstly, the syndicalist accepts the dogma of the class war in its most extreme and unmitigated form, converting it from a philosophy of history into a plan of campaign. Secondly, he aims, with Marxian socialists, at the forceful and immediate expropriation, without compensation, of all the capitalists and landowners, at the extinction of private enterprise and the suppression of competition. Thirdly he accepts without question the Marxian doctrines of value and surplus value. F. J. C. Hearnshaw: A Survey of Socialism, p. 113.

action, that is, not simply in the organisation of workers, of the whole community. The state will own,

**Differences in Syndicalism and Socialism.** produce and operate all industries, and will include both producers and consumers. *Syndicalism however, takes account of workers only.*

Secondly, socialism *appeals to general public opinion* for its adoption; syndicalism is simply to be guided by *the opinion of workers only.*

Thirdly, *socialism believes in parliamentary action* or constitutional methods, in its realisation, stages by stages. Syndicalism as we shall presently see, believes in *revolution or revolutionary action.* It emphasises force, creates riots and paralyses administration both political and industrial. This is why it has been called 'Organised Anarchy.'<sup>22</sup>

Fourthly, Socialism tries to end the capitalistic system with the idea that *industries exist for the good of the social whole* and not for the benefit of a particular class which should always dominate it. Syndicalism certainly tries to do what socialism tries to avoid. The *capitalistic worker* will be substituted for the old capitalistic class. This is why Max Nordau has remarked 'that though Syndicalism may be said to arise out of socialism, syndicalism is the very antithesis of socialism.'<sup>23</sup> In fact, it appears, that syndicalism is nothing more than socialism inverted. Lastly, *Socialism began with ideas and developed organisations* in the light of those ideas; *syndicalism began with an existing organisation*, the syndicate of workers, and developed ideas appropriate to it.<sup>24</sup>

Syndicalism, further, is not simply a programme of direct action: it has a philosophy of its own. Sorel is its **Philosophy of Syndicalism . . . Sorel.** philosopher and Lagardelle its best exponent. It is not therefore a wild revolt: it has its ideals and these ideals are to be backed by enthusiasm and inspiration. To sum up briefly, Sorel preached:

<sup>22</sup> Bertrand Russel: *Roads to Freedom*, p. 82.

<sup>23</sup> W. C. Towler and W. Ray: *Socialism, Its Promise and Failure*—quoted on p. 4.

<sup>24</sup> Bertrand Russel: *Roads to Freedom*, p. 72.

(1) That the workers should have a vision or myth before them and they must believe that they have to realise it. This belief is to be as strong as the belief in the 'Second

(i) There should be a vision or myth before the workers. Coming' in the Christian doctrine. For this they must always remain inspired and must feel constantly enthusiastic about it. This requires no forethought nor calculation. Agitation simply is necessary to keep up enthusiasm and the General strike ought to be the myth of the Syndicalist millenium.

(2) That the workers must know that it is the 'minority' that have always brought important change. They must not waste their time and opportunity in the pious declarations of

(ii) It is the minority that always creates important change. 'permeation' and 'ordered progress:' this is not the way of solid achievement. The secret of

success lies in energy and action, and hence it is not necessary for workers to wait with the idea of winning over others to their views. Perhaps this will never be successful, for society, after all, is permanently divided into exploiters and exploited and the former will never listen to the latter. The workers should, therefore, stand on their own legs and bring about the necessary changes.<sup>25</sup> With their victory, every thing will become all right and they would not prove tyrants because of the moral discipline which they might have by this time inculcated amongst them.

Thus the workers should never remain content with little "concessions" like increase in wages or reduction of hours, improvement

<sup>25</sup> F. J. C. Hearnshaw in 'A Survey of Socialism,' p. 315 thus accounts for the radical attitude of the Syndicalists:

(i) The rank and file of the labour movement are profoundly dissatisfied with their socialistic leaders and are intensely disgusted at their failure to redeem their promises.

(ii) They are filled with despair at the impotence of politicians and at the pettiness of party warfare.

(iii) They are acutely resentful at the loss of personal liberty entailed by the growth of modern large scale, mechanized industry.

(iv) They are determined to use the prodigious power which their ability to stop production places in their hands in order to secure for themselves the bulk of the wealth produced and with it the opportunity of a larger and richer life.

in conditions of factory work or housing and beneficent legislation for children, women and old age.

**Methods of Syndicalism.** They must always keep their ideal before them and must constantly feel that they are being robbed. They should, therefore, remain eternally vigilant and ready to take all measures and at all times so that they may achieve their desired end at the first opportunity that presents itself to them. They must go on occasional strike not merely to harm the capitalist and the capitalistic organisation but also to keep up enthusiasm and discipline among their own class so that they may be ready for the time when the General strike may be called to bring about the 'halt' of the capitalistic system. They must resort to Sabotage<sup>26</sup> . . . spoiling of work . . . with dilatory tactics as well as injuring and breaking tools. They may take to boycott in various forms and adopt the 'label' showing that the work has been done under trade union conditions. In short, they should wage a ceaseless war against the capitalist but their methods should be industrial not political.<sup>27</sup> In this way, the state with all its capitalistic organisation will be demolished and the only thing that will remain will be the self governing workshop organised on a free basis into a federal industrial organisation.<sup>28</sup>

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<sup>26</sup> Sabotage includes such tactics also as telling the customer the real truth about the thing that is going to be sold, in this way inflicting a monetary loss on the capitalist, for after knowing the defects, etc., he will not buy it. Or the workers may so waste the time and money of the capitalist by unnecessary fine work that the output be small. It may also include such heartless activities as causing railway accidents. In short, all such paralysing activities can easily fall under the term 'Sabotage'. Vide Bertrand Russel: *Roads to Freedom*, p. 79.

<sup>27</sup> R. MacDonald in his 'Syndicalism,' p. 30 has very well put this aspect of syndicalism: 'Spontaneity in feeling, freedom in action, equality in co-operation within the camp, a sleepless hostility against the enemy, carried on sometimes by guerilla tactics, sometimes by grand engagements all along the line of marshalled forces—that is the pageantry of industrial conflict which allures the syndicalist of the factory and the workshop.'

<sup>28</sup> Kirkup in 'A History of Socialism,' Chapter XI, beautifully analyses the nature of syndicalism which he regards as a blend between Trade Unionism and Anarchism. From the former it has taken:

- (i) Its conception that working class salvation is to be sought not in politics, but in self help and self organisation.

After Syndicalism, another branch of Revolutionary Socialism is the so-called Guild Socialism.<sup>29</sup> It has been regarded as a com-

## 2. Guild Socialism.

promise between State Socialism,<sup>30</sup> and Syndicalism and as Athenaeum puts it 'Guild Socialism avoids the hazards of Anarchist Communism and the bureaucratic tendencies of State Socialism, yet com-

- (i) that capitalists are to be fought and conquered, not by the community organised politically but by the working classes organised industrially,
- (ii) and that the working man is before everything a miner or cotton operative and secondarily a citizen

From Anarchism it has borrowed:

- (i) A profound belief in the moral value of a revolt. Strikes are good in themselves whether they succeed or fail. They keep prepared the workers to a form of action.
- (ii) the conception of the future state in which government and private property are to be abolished,
- (iii) the revolt against the use of authority. None is to give orders.
- (iv) the strong antipathy to militarism and
- (v) the sabotage as an industrial method of warfare like the Anarchist method of violence

<sup>29</sup> Guild Socialism, like Fabianism, is an English movement. A. J. Penty in 1906 wrote 'The Restoration of Medieval Guild System' thus emphasising self government in industry as it had existed in Europe in the middle ages. It was then taken up by A. R. Orage and S. G. Hobson and in recent years Mr G. D. H. Cole has been writing consistently on it. His 'Guild Socialism restated' is a fine little treatise on the principles of that movement.

<sup>30</sup> The term 'State Socialism' has often been used loosely and in a variety of meanings. It first came to be used when in Germany Bismarck was forced to grant some concessions to the Socialist agitators by introducing such legislation as old age insurance and other acts ameliorating the condition of labourers. This concessionary attitude of the capitalistic state was derisively called State Socialism. From that time the term has often been used to denote 'the aim and endeavour of the state to secure by laws or institutions, a greater equality of conditions.' (*Vide* Graham, *Socialism Old and New*, pp 3-6). Hence, (as Schaffle has put it in his *Impossibility of Social Democracy*, pp 16-17) State Socialism stands for the constructive policy of social reform and state organisation of industry, and it is not necessary that its regime must necessarily be a democratic one. Further, the term has also been used for what we have styled Evolutionary Socialism, that is, Fabianism and Revisionism and it is in this sense that it has been used in the passages quoted above. (But we must remember, to avoid confusion, that the term collectivism has also been used for Evolutionary Socialism, *Vide* E. Barker. From Spencer to To-day, pp 222-25).

prehends practically all the benefits they offer.' Thus in the Guild State the state will represent consumers thus maintaining political freedom while the guilds in their ultimate organisation as the National Guild would represent producers thus enjoying economic freedom. The idea is that our society has become so very complex that the old state, besides being capitalistic, does not represent the society itself. For how can the state represent 'the whole' of every individual. He is not simply a member of the state: he has vital interests in his school, in his church, and in his trade union. Hence an average human being or the 'common man' sometimes even does not care for the state at all. Thus our Representative Democracy, in fact, is misrepresented. It should no longer take account of the individual as the basis of representation. It should count *the function* he represents. This means that the functional group ought to be the basis of our representation for it is in such groups that the life of the individual has come to be organised. Hence the group has now definitely replaced the individual as the unit of society and it is this functional group which Guild Socialism takes as its basis. Further, as Cole has pointed out, the representative democracy has up to this time been based upon false thesis. How can a man represent the *will* of another man, which is definitely one's own? He can certainly represent his function. Hence the idea of one man, one vote as based on will falls down and is replaced by one function, one vote. This means that the whole theory of representative democracy is to be recast and a functional democracy established.<sup>31</sup> Guild Socialism therefore represents an attempt in this direction.<sup>32</sup>

The advantages of such a scheme can be easily comprehended. In the first place, the capitalist state as representing the dominant interests will vanish. *It will become a truly representative state and will no longer remain a class state.* Secondly, the workers need not be so aggressive and violent as in Syndicalism for *the new organisation is to be based on function and the citizens will be organised in the groups of their trades and occupations, and they will have the benefit*

<sup>31</sup> G. D. H. Cole: Guild Socialism restated, p. 33.

<sup>32</sup> In 1915 the National Guilds League was founded in England.

of self-management. They will still have the 'workshop' as the basis of their organisation and the *National Guild* will represent the idea of 'self-government in industry.'<sup>33</sup> Further, this self-government will not simply end with the political and the economic associations. *It will extend to every important aspect of organized social life.* Thus like the state and the guild, the church and the school will also be democratically organized from the local unit to the national whole. In this way, the 'many sidedness' of every individual will receive its full expression under Guild Socialism which will thus establish a true democracy. These different national organisations, political, economic, spiritual and intellectual . . . will then be further represented in a commune which will coordinate and adjust the differences among the various associations and will maintain the army and the navy for purposes of defence and will also act as a Supreme Court in all disputes.

In 1920 a builders' guild was founded to give a practical exhibition to the guild idea. It was reconstituted in 1921 but collapsed in 1922. The 'Guild Socialist,' the organ of the movement, admitted the failure of the enterprise owing to the laziness, the incompetence, the quarrelsomeness and the indiscipline of its members.<sup>34</sup> On the basis

**O b j e c t i o n s  
against Guild  
socialism.**

<sup>33</sup> For these principles of Guild Socialism, W. G. Towler and W. Ray, *Socialism, its promise and failure*, pp. 103-104 may be read with advantage. F. J. C. Hearnshaw in 'A Survey of Socialism, p. 323 thus summarises them:

- (i) Self-government in industry, i.e., they demand the emancipation of labour equally from the dominance of capital, the control of employers, and the authority of the state. Each profession, craft of industry is to be entirely autonomous.
- (ii) All the members of each profession, craft or industry are to be organised in a gigantic producers guild which is to enjoy a complete monopoly in its own particular sphere of operation.
- (iii) All the producers' guilds are to be associated in a national system, an economic parliament which, without any interference from any political or religious authority, shall determine all general questions of commercial and industrial policy.
- (iv) Side by side with this economic organisation will exist a similar political organisation.

<sup>34</sup> F. J. C. Hearnshaw: *A Survey of Socialism*, pp. 326-27.



of this failure, Professor Hearnshaw has been led to make the following objections against Guild Socialism:<sup>31</sup>

(1) *It would produce chaos in industry.* Agitation, intrigue, indiscipline, everything except steady work, would flourish in rank luxuriance.

(2) *It would cause stagnation in industry.* There would be no further inducement to improve methods, to introduce new inventions, to consult the desires of consumers, to display any sort of interest or energy in production; in short the deadliest professionalism would have unchecked sway in all avocations.

(3) And as a consequence, *output would diminish* and prices would rise.

(4) *The possession of monopoly* specially in the necessities of life, *would give to the guilds a power of life and death* which no restraint of the consumers' councils and the national parliament, short of civil war, could prevent from developing into the most appalling despotism.

(5) *National bankruptcy would speedily bring the whole crazy structure to the ground.*

A third aspect of Revolutionary Socialism is Communism which has been called 'Socialism with the courage of its convictions.' It is the perfection of socialism. But while all

**3. Communism.** communists are socialists, all socialists are not communists, for with the latter, as we shall see, the state will wither away and there are many socialists who want to achieve their ideal through the state.

<sup>31</sup> *Ibid.*, pp. 324-25.

For these objections, also see W. G. Towler and W. Ray . . . *Socialism, its promise and failure*, pp. 104-105, but specially pp. 118-120, where the authors discuss in detail the points of weakness of Guild Socialism, such as:

- (i) There seems to be no guarantee that a Trade Guild will not be a severe, cruel monopoly, using its chartered powers to fleece the public.
- (ii) The old Trade guilds were unprogressive, opposed to new methods and a hindrance to industrial development.

Communism is essentially based upon Marxian analysis of Modern Society or upon Lenin's interpretation of Marx and Engels.

**Its principles.** At least, this is the view of Pasvolsky in 'The Economic Theory of Communism.' Laski also seems to take the same view when he says that the communists accept Marxian economics literally, that is, they accept the labour theory of value and regard surplus value as theft by the capitalist. The state, therefore, is a capitalistic organisation and its law, police and army give it power over the means of production. The school and the church all preach obedience so that the teachers and theologians have all entered into a conspiracy with the capitalist to keep down the workers. This is why Lenin regards the state as 'the product and manifestation of the irreconcilability of class contradictions or antagonisms.' Hence within the present capitalistic organisation of the state there is no room for reconciliation, no *via media* for workers, but to take to force and achieve the social millenium. Thus the first thing that the communists would do is to rise in rebellion and capture the state. In this way, the capitalistic state will at once be replaced by the Proletarian state in which the workers would hold power. But this does not mean that the whole capitalistic organisation will also vanish in the twinkling of an eye. There will necessarily be a period of transition for the gradual demolition of the old and the construction of the new. In this process, the state will *with away* and communism achieved . . . a voluntary association of individuals holding all property in common and carrying on life on the basis of 'From each according to his abilities: to each according to his needs.'

- (iii) The guilds have to enlist the services of existing leaders of industry . . . the skilled products of competitive industry. When these men are gone, will the guilds be able to train new leaders?
- (iv) Has not the past experience of similar ventures been a failure? Quarry men, miners, and others have started ventures on lines similar to guild socialism, but such ventures were short lived.
- (v) In what respect will guild socialism differ from the Communistic societies which have proved unsuccessful, owing to the general idea of each member that he need not work hard because the others would do the work?

The first stage in the realisation of communism which involves the capture of the state by the Proletariat has been called Imperfect

**Imperfect Communism and Real Communism.** Communism or Socialism. It has also been called Collectivism<sup>36</sup> or State Communism for it realises Socialism through the state and has the whole

nation as a subject on which to operate, and there are still existing nearly all the elements of the capitalistic society and its government. It is, so to say, *a bourgeois state without the bourgeoisie*. This Proletarian state will take to its work of destruction<sup>37</sup> and construction. It will socialise the means of production, that is, it will order the confiscation of the private enterprises of electricity, railways and engineering; it will nationalise landed estates; it will take over the banks, regulate commerce and monopolise the press; it will disband the army and navy and lastly, it will break all privileges, dethrone the priests and reform education according to the new ideals. In short, this first act of the Proletarian state will also be its last as *a state*, for all the defects and remnants of the capitalist state having been removed the whole society will come to one level. In one word, Democracy in its fullest sense will

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<sup>36</sup> Collectivism, like State Socialism, has also been used very loosely. In the first place, both Plato and Rousseau were collectivists for they stood for the power of the collectivity or the society. In this sense, as Ivor Brown also uses it, Idealism was also collectivism. But as used in connection with socialism, collectivism involves both the economic and political aspects of organisation. Here too confusion has been wrought by an indiscriminate use of the term. Real collectivism, in the sense in which the majority of writers use it, therefore, is of the Fabian order. In other words, Evolutionary socialism is collectivism. Revolutionary socialism may better be called either simply Socialism or State Communism, but not Collectivism. The Russian experiment of our own day represents Socialism. The next stage which is the ideal of this experiment is Communism.

For this view of Collectivism that I have presented please refer to (i) Graham: Socialism, Old and New, p. 6, also (ii) E. Barker: From Spencer to To-day specially, p. 224.

On Russian Experiment, W. G. Towler and W. Ray: Socialism, its promise and failure, p. 304.

<sup>37</sup> Though I have used the word 'destruction' here the difference between destruction and withering away must not be lost sight of. It must be borne in mind that the communists stand for withering away of the state. This means its gradual disappearance. The Anarchist, as we shall see, stands for a complete destruction of state, and this is to be done in one stroke and at the first attack.

be realised in which every one will be able to contribute his best to the social whole, and will freely satisfy his needs. Thus the Proletarian state after accomplishing the acts of transition would no longer justify its further existence and would therefore itself melt away. This means Communism in the highest sense would be realized.<sup>38</sup>

The fourth and last important aspect of Revolutionary Socialism is Anarchism, but there are many who regard it as an extremer phase of Individualism. Socialists themselves disown it

#### 4. Anarchism.

and go even so far as to say that Socialism is the greatest organised opposing force to Anarchism, for the one is a scientific and elaborate collectivism, the other is a mere unrestricted individualism. It is true both these movements criticise the existing social order and both condemn the present capitalistic regime, but

<sup>38</sup>H. J. Laski in his 'Communism,' ch. IV, thus sets forth the points of transition and the realisation of communism:

- (i) The suppressed majority will come in power to suppress and not to be suppressed.
- (ii) Officials will be reduced to an equal level with others.
- (iii) The army will be abolished and will be replaced by the army of the Proletariat.
- (iv) Officials in the regime will be elected and subject to recall, in this way they will remain responsible to those who elected them.
- (v) Parliamentary institutions might go away giving place to a working cooperation, legislative and executive at the same time. Local Soviets might be combined to form regional or provincial soviets which would further be linked to a central soviet organisation. In this way, during the transition period the dictatorship of the Communist Party should remain unquestioned.
- (vi) On every individual there will be an obligation of labour. 'He that will not work shall not eat.' He will have to do as the state directs.
- (vii) The schools will be used as instruments of propaganda for the communist regeneration of society.
- (viii) Religion which Marx regarded as the 'opium' of the people will be incompatible with the communistic organisation and life.

Thus the new society or communism will usher in when the people have become accustomed to the new way of life, work voluntarily according to their abilities and take according to their needs. The whole society will then become 'one office, one factory, with equal work and equal pay.' When this has been achieved, the need of all government will vanish and everything will work automatically.

after this common attitude, they part company. Thus Spargo sets forth the essential differences between the two movements:<sup>39</sup>

<i>Socialism:</i>	<i>Individualism:</i>
<b>Differences between socialism and individualism.</b>	
1. is based on the fundamental idea of <i>social</i> interest and responsibility.	1. is based on <i>individual</i> interest and responsibility.
2. regards society as supreme and <i>organic</i> .	2. regards the individual as supreme and society as <i>aggregate</i> .
3. grants a greater <i>control to society</i> to realise individual freedom for it is under a common law that the widest freedom is possible.	3. regards law as essentially tyrannical and believes that <i>no individual can rightfully control</i> other individuals.

But while socialists themselves thus dissociate themselves<sup>40</sup> from Anarchism, Rae contends that *Anarchism is nothing but an extremist phase of socialism*.<sup>41</sup> To him, there are anarchists no doubt who are not socialists, but *Anarchism as such is nothing but a chapter in Marxism*.<sup>42</sup> It is Socialism both in origin and

<sup>39</sup> John Spargo: *Elements of Socialism*, p. 358.

<sup>40</sup> Besides Spargo, Ramsay MacDonald is even more emphatic in this denial in 'The Socialist Movement,' p. 124. Further, Towler and Ray quote the view of W. D. P. Bliss who says "From the day when Karl Marx and Bakunin, after the Congress of the International at the Hague in 1872, led their forces into separate camps of Anarchists and Socialists, the two parties have never worked together," 'Socialism, its promise and failure,' pp. 79-80.

<sup>41</sup> John Rae: *Contemporary Socialism*, p. 4.

<sup>42</sup> Besides Rae, Dr. Schaffle in 'The Impossibility of Social-Democracy,' (pp. 25-26), asserts the same view when he says "Some light is thrown on the nature of Social Democracy by the consideration of its extremest offshoots, Anarchism. This school demands entire equality, but also entire freedom, hence the abolition of all governing authority. This is the *practically* absurd, but *theoretically* quite logical ultimate outcome of 'pure' Social Democracy." Again on pp. 29-30, when discussing Social Democracy as international, human and cosmopolitan, he observes 'Humanity, for it means the entire mass of human individuals, not an organic combination of peoples. Thus, even in its cosmopolitanism, social democracy is an intensified Individualism.'

principle, and is *more socialist more democratic and even more revolutionary than Socialism itself*.<sup>43</sup>

First, it is more socialist because it is disposed to want not only common property and common production, but common enjoyment of products as well. Secondly, it is more democratic because it will have no government of any

(i) It is more socialist. kind over the people except the people themselves,<sup>44</sup> no king or committee, no representative institutions but

(ii) It is more democratic. merely every little industrial group of people managing its public affairs as it will manage its industrial work. Thirdly, it is more revolutionary for it has no faith even temporarily in constitutional procedure.

(iii) It is more revolutionary. It believes in Revolution, not in a propaganda of word, but in that of deed.

Thus Anarchism is among those unfortunate terms which have always been most talked of but least understood. "Few of the

**Confusion in the meaning of Anarchism.** great causes which have inspired devotion in the past," says W. J. Brown, "have suffered so much as 'Anarchy' from the uncritical depreciation

that confuses essentials with accidental association."<sup>45</sup> It is generally regarded as the cult of the bomb and the bullet<sup>46</sup> bent upon creating mischief in society. Even writers like

Lavelye, Garin and Ferri have misunderstood its real

<sup>43</sup> John Rae: *Contemporary Socialism*, p. 248.

<sup>44</sup> On pp. 250-51 Rae quotes Proudhon thus:

Communism is the government of all by all;

Democracy is the government of all by each; and

Anarchy is the government of each by each.

Every man is an autocrat of himself. Anarchy is the only real form of self-government.

Cf. also a similar comparison quoted by Bertrand Russel in 'Roads to Freedom,' p. 82 from 'Syndicalist Railwayman' of September, 1911. "All Syndicalism, Collectivism, Anarchism aim at abolishing the present economic status and existing private ownership of most things; but while Collectivism would substitute ownership by every body and Anarchism ownership by no body, Syndicalism aims at ownership by Organised labour.

<sup>45</sup> W. Jethro Brown: *The Underlying Principles of Modern Legislation*, p. 2.

<sup>46</sup> Bertrand Russel: *Roads to Freedom*, p. 49.

character.<sup>47</sup> It is true that many of the most heinous crimes have been committed and are being committed in its name,<sup>48</sup> but this has also been done and is being done in the name of religion and of nationalism.<sup>49</sup> Does this mean that both Religion and Nationalism are essentially bad? Hence, says W. J. Brown, 'we can no more reject Anarchy because ill deeds have been done in its name than we can reject liberty for the same reason, or than we can repudiate Catholicism because of the Inquisition,<sup>50</sup> further, we know that it is not a mere bazaar gossip: its advocates have been such brilliant men as Godwin, Proudhon, Stirner, Bakunin, Kropotkin, Tucker and Tolstoi.<sup>51</sup>

But inspite of such brilliant advocacy we cannot easily form an accurate idea of Anarchist doctrines. In fact, as Rae has said, there are as many anarchisms as there are anarchists,<sup>52</sup> and we can multiply instances in which the most opposite standpoints have been preached as Anarchism.<sup>53</sup> On the one hand it has been suggested that it stands for a historic law of evolution, that it is affirmative and creative, its essence lying in its positive efforts and in its utterances about the ideal society; on the other hand, it has been maintained that it culminates in the negation of every programme, it rejects law, society,

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<sup>47</sup> E. V. Zenker: *Anarchism*, Preface, p. vi; also P. Eltzbacher in his 'Anarchism' (translated by S. T. Byington) on p. 3 says 'At present there is the greatest lack of clear ideas about Anarchism, and that, not only among the masses, but among scholars and statesmen.'

<sup>48</sup> Bertrand Russel: *Roads to Freedom*, p. 67, "Anarchism attracts to itself much that lies on the borderland of insanity and common crime," and he quotes L. S. Bevington who admits that unbalanced enthusiasts have been marring the cause of Anarchism. She advises leaving such indiscriminate killing and injury to the governments to its statesmen, its stock brokers, its officers and its law.

<sup>49</sup> The student may here recall the famous statement of Lord Acton that the theory of Nationality has proved more criminal than even religion.

<sup>50</sup> W. J. Brown: *The Underlying Principles of Modern Legislation*, p. 3.

<sup>51</sup> These seven writers form the subject-matter of Eltzbacher's *Anarchism*.

<sup>52</sup> John Rae: *Contemporary Socialism*, p. 250.

<sup>53</sup> Eltzbacher: *Anarchism*, pp. 3-4. Here we find the best summary of the various Anarchist viewpoints and I have reproduced them in detail.

state and property all together. Again, it is asserted that it is to be realised through crime, specially through a violent revolution and that Anarchism rejects violent tactics and the propaganda of deed or at least they are not necessary constituents of Anarchism. Further, it is declared that in the future society of Anarchism there is no tie of contract binding persons together; then it is said that its aim is to have all public affairs arranged for by contracts between federally constituted communes and societies.

In short, we are led to believe that either Anarchism is every thing or it is nothing for even in its name we find distinctions drawn.

Sometimes a distinction is made between Communistic and Individualistic Anarchism or between communistic, collectivistic and individualistic Anarchism. at others it is preferred to be called as Anarchist Communism.<sup>54</sup>

Thus the best way of knowing Anarchism is first to know what it is not and this is exactly what W. J. Brown has done as we shall presently see.<sup>55</sup> Even Proudhon is said to have

**What Anarchism is not.** followed the same method of elimination when he for the first time used the term Anarchism for his creed. for upto that time it was used as a term of reproach by the help of the propaganda of deed, and then it is maintained

<sup>54</sup> Bertrand Russel: *Roads to Freedom*, p. 52. "The Modern Anarchism . . . is associated with belief in the communal ownership of land and capital, and is thus in an important respect akin to socialism. This doctrine is properly called Anarchist Communism, but as it embraces practically all modern Anarchism we may ignore individualist Anarchism altogether, and concentrate attention upon the Communistic form. Socialism and Anarchist Communism alike have arisen from the perception that private capital is a source of tyranny by certain individuals over others. Orthodox socialism believes that the individual will become free if the state becomes the sole capitalist. Anarchism, on the contrary, fears that in that case the state might merely inherit the tyrannical propensities of the private capitalist. Accordingly, it seeks for a means of reconciling communal ownership with the utmost possible diminution in the powers of the state and indeed ultimately with the complete abolition of the state. In the same sense, in which Marx may be regarded as the founder of Modern Socialism, Bakunin may be regarded as the founder of Anarchist Communism."

<sup>55</sup> W. J. Brown: *The Underlying Principles of Modern Legislation*, pp. 2—6. A similar method has been adopted by Ramsay MacDonald in 'The Socialist Movement.'



against the enemies.<sup>56</sup> The word 'Anarchy' was written as 'archie' meaning thereby 'absence of dominion' and not disorder, but its enemies deliberately called it Anarchy simply to produce confusion. It was then adopted by Kropotkin in the form in which we use it.<sup>57</sup>

Anarchism<sup>58</sup> then, in the first place, is not a doctrine of assassination. Godwin believes in convincing people and winning them over by argument and discussion. Tucker insists

1. It is not a doctrine of assassination. only on passive resistance to authority rather than crime and violence and Tolstoi emphasises love, morality and Christian ethics.

Secondly, it is not a doctrine of might. It is in fact a protest against might. 'It is an appeal from the might of rulers to the sense of the right in the individual, from the coercion of the state to the conscience of the citizen, from law that is penally enforced to the law that is voluntarily accepted.'<sup>59</sup>

<sup>56</sup> Eltzbacher: Anarchism, p. 67 footnote. The student should read the interesting passages quoted by the author in paragraph 3 of pp. 66-67.

<sup>57</sup> *Ibid.*, pp. 140-141.

<sup>58</sup> Kirkup in a History of Socialism, ch. xi thus summarises the Principles of Anarchism:

- (i) Rejection of all external authority.
- (ii) Appropriation of all land and capital.
- (iii) Dependence of all human actions on the free actions and consent of individuals.
- (iv) Associations of workers to enter into federal relations, that is, the process of social reconstruction is the free federation of free associations.

<sup>59</sup> Bertrand Russel in 'Roads to Freedom' on p. 50 says "Anarchism, as its derivation indicates, is the theory which is opposed to every kind of forcible government. It is opposed to the state as the embodiment of the force employed in the government of the community. Such government as Anarchism can tolerate must be free government, not merely in the sense that it is that of a majority, but in the sense that it is that assented to by all. Anarchists object to such institutions as the police, and the criminal law by means of which the will of one part of the community is enforced upon another part. Liberty is the supreme good in the Anarchist creed, and liberty is sought by the direct road of abolishing all forcible control over the individual by the community."

The student may also read W. . Brown: "The Underlying Principles of Modern Legislation:" Prologue . . . The challenge of Anarchy. Here he discusses

Thirdly, it is not a protest against all social organisation or rules of conduct. It is against the state and its government, for it believes that they are the results of force and are

3. It is not a protest against all social organization. founded on force, while the law of human life is mutual aid or voluntary co-operation. Anarchism

thus believes in the moral dignity of man, in the fact that he is a social being, and not a quarrelsome creature. Contractual obligations in the anarchist society will be enforced by the sense of right among individuals, by the pressure of the moral conscience of the community. Thus while it stands for the abolition of the state as an instrument of oppression, it stands for the self-government of the individual; as Zenker puts it 'Anarchy means, in its ideal sense, the perfect unfettered self-government of the individual and consequently, the absence of any kind of external government.'<sup>60</sup> The individual because of his moral conscience will create 'self-discipline' as against all temptations to encroach upon others. Anarchism, in this sense, would not be a 'creed of unreason in Politics,' as Ritchie<sup>61</sup> would let us believe: it would be founded on reason, on the consciousness and the reasoned judgment of the individual. It will raise the moral stature of man. Pure Anarchy would thus be a habitat of Nietzsche's . . . Superman. What more does the world expect from Socialism in any of its forms?

how the Anarchists view the governmental control of the individual as unnecessary, inexpedient and morally wrong—unnecessary, because men obey not so much because of fear of government as because of public censure; inexpedient, because it does not appeal to man's higher self, rather it appeals to his baser self, that is, fear; morally wrong, because it involves an invasion on the rights of manhood. Just as no man has a right to tax another, the majority has no right to tax the minority without its consent.

<sup>60</sup> Zenker: *Anarchism*, p. 3.

<sup>61</sup> D. G. Ritchie: *Natural Rights*, Preface.



## APPENDIX

### SOME RECENT TENDENCIES IN POLITICAL THOUGHT<sup>1</sup>

. It has been said of political philosophers that they first kick up the dust and then complain that they cannot see. The suggestion behind this statement is that because they needlessly ask the 'why' and 'wherefore' of institutions, they themselves create trouble. Why should they question the *status quo*—the things as they are? An unruffled existence requires a life that flows with the current and not against it.

**Political  
Philosophers.**

But this view of static existence entirely ignores the vital facts of human psychology. In the first place, it tries to ignore the instinct of inquisitiveness in man thereby maintaining that its exercise would bring in nothing in our life save the troubles created by Pandora's opening the forbidden box and Adam's eating the forbidden fruit. Secondly, it entirely disregards that pleasure of the soul which man derives by thinking for the sake of thinking, what to say of any utilitarian motive. A man having the faculties of seeing and hearing cannot but reflect upon his surroundings. Thus a static existence of man goes counter to the human nature itself. Will man's life be

**Human  
Psychology.**

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<sup>1</sup> This 'Paper' was read by me as an extra-mural lecture in the Allahabad University on February 8, 1936. Through the kindness of Mr. K. Iswara Datta, the then Editor of the 'Twentieth Century' Magazine, it had found place in the April and May numbers of that Magazine. Now my thanks are due to its present Editor, Mr. P. K. Banerji who has very kindly allowed me to get it reproduced here in this book.

In writing out this 'Paper,' besides other recent works on Political Theory such as Krabbe's 'The Modern Idea of the State,' and other 'Articles,' I am specially indebted to Mussolini's 'The Political and Social Doctrine of Fascism' for the characteristic features of that movement. I have also taken some passages from J. S. Barnes 'Universal Aspects of Fascism' in connection with the Relativistic Tendencies in Fascism. Paul Einzig's "Economic Foundations of Fascism" has also been useful in the study of that movement as a whole.

worth living in the absence of ideals? Hence to think of the future, to wish for change, to move forward and to progress are ingrained in the very constitution of man. Man wills change by willing change. He is by nature dynamic. Political Science, if it is to be the science of man, must also be dynamic. This is the real meaning of the Philosophy of History. It is true, as Bagehot tells us, that the cake of custom is hard to break, but it is equally true that it is as hard to resist the onward march of man. It is out of this thesis and antithesis that the synthesis of Progress has always resulted, or as Marx and Lenin would have put it, it is out of such 'contradictions' of human nature itself that the way for a further move is opened. Hence Political Theory cannot and should not neglect "what is"; and it cannot and ought not to close its eyes to "what ought to be."

The given conditions and environments have always affected human minds. Sometimes men have made movements, at others,

**Man and his  
Environments.**

even movements have made men. Political Philosophy too is no exception to these truths. In the whole history of political thought, we find political thinking conditioned by the circumstances in which that thought developed. To begin with Plato.

We usually say that his Republic was a mere fiat of imagination, that he was a poet of Politics, that he soared high into the air,

**Plato.**

but we never mean that he was not influenced by the conditions and circumstances of his times. Did he not write his great polemic against contemporary capitalism, against the seclusion and subjugation of women and against the prevailing unrighteousness itself?

Then, Machiavelli has been called the child of the Renaissance. The chief characteristics of this movement were its emphasis upon

**Machiavelli  
and Renaissance.**

freedom, upon the new spirit of nationality and, with it, on the strong monarchs as the agents of the unifying process, and these influences are to be found in the "Prince" of Machiavelli. And yet it was Machiavelli and his philosophy that created the international anarchy which only came to a close under the influence of the international law of Grotius and the resulting public system of Europe as it was settled by the Peace of Westphalia.

Next came Hobbes, Locke and Rousseau as the three great writers of the beginning of modern times, who were also influenced by contemporary conditions in their political writings. **Hobbes, Locke and Rousseau.** Hobbes' 'Leviathan' was not only an outcome of the English Civil War: it was also a reply to the anti-monarchist social contract writers to meet them on their own grounds. This is why it has been called a gigantic political pamphlet addressed to its own times. Locke's 'Treatises' were not simply the justification of the Glorious Revolution and the rise of Constitutional and Responsible Government but they were also the refutation of the Divine Right Theory of Filmer's 'Patriarcha.' Similarly Rousseau's political writings were not only a hollow exposition of the evils of the Ancient Regime: they also formed the Bible of Democracy and of the Sovereignty of the People. In one word, if James represented the Divine Right of Kings, Locke and Rousseau specially heralded the Divine Right of Peoples, and the Bill of Rights, the Declaration of Independence and the Declaration of the Rights of Man, are to be read in one context as the three great stages in the realisation of the liberty of the individual and the liberty of the peoples, in one word, of Democracy and Nationalism.

Bentham, further, by his Utilitarian Movement as based on the individual's self-interest not only fastened hooks in the nostrils of 'Leviathan', he was also the greatest fore-runner of liberal tendencies in all walks of life. **Bentham and Mill.** The sovereign state was to be the public service state. If he reformed law and education, the judicial and the governmental methods, Mill, his disciple, will ever be remembered as the greatest apostle of liberty, not simply of the individual as such, but especially so of woman. He also proved himself to be the greatest theorist of the coming Democracy by writing his masterpiece on the 'Representative Government.' If Bentham thus made the Utilitarian Movement, this Movement made J. S. Mill and it is to the influences of these two writers that the 19th century liberalism owes its progress and development. Similarly many other instances can be multiplied to show the effect of environment on the rise and development of political thought.

In the study of contemporary political thought also, we cannot ignore the conditions under which that thought is growing. In India, we ourselves know how Mahatma Gandhi made the Non-co-operation Movement and yet the Non-co-operation Movement has made men like Jawahar Lal, Sardar Patel, and Babu Rajendra Prasad. In Europe, for our immediate purpose, Mussolini has made Fascism and Hitler has made the Nazi movement, and yet both of them have been made by the special conditions of their times.

We all know how the Renaissance and the Reformation movements brought the individual to importance in political life. He

**The individual and the Modern State.** became the basis of our social structure. The theory of Individualism tried to build the social structure round the individual and thereby it

maintained throughout a grudging attitude against the state. But the coming of Utilitarianism marked a transition between Individualism and Collectivism for that theory contained the seeds of both of these view-points. While it emphasised the individual on the one hand, it also emphasised on the other the action of the state in bringing about the greatest happiness of the greatest number. The problems created by the Industrial Revolution demanded state action more and more so that the way was cleared for Social legislation day after day till the philosophy of Idealism and of Socialism definitely adopted State activity as the real way of guaranteeing freedom to the individual. Side by side, came the theory of Social Organism thereby making the whole in every sense prior to its parts. In these ways, state action became the order of the day and political thought from the seventies of the 19th Century to the War was dominated by the idea of a sovereign state with large powers. In the Great War, these powers were so extensively exercised that there came to be a reaction against the absolutist theory of the state.

In the first place, the idea gained ground that this greatest catastrophe of civilisation was itself the result of the height to

**Reaction against State Activity.** which this 'mortal god' had been raised by each nation. That is, it was suggested that Hegels' conception of the majesty of state could find no

better actual manifestation of the omnipotence of the state in its

individuality than could be seen in this world-wide drama in which the individuality of the German Emperor as well as of the German State was significant.

Secondly, in every country, there were pacifists who did not favour war, and in England itself even men like Ramsay MacDonald had been considered as traitors. After the War, therefore, there was a reaction in favour of Pacifism and therefore against the power of the state.

Thirdly, life in the normal way had come to cease and every walk of human activity was lying disorganised.

Fourthly, the 'flower' of every nation had been sent to the front and all other able-bodied men were ready to sacrifice their lives for the safety of the motherland. This suggested not simply the economic cost of war but also brought to notice the human cost of war.

Lastly, because of utter disorganisation of trade and industry, governments of the day began to control all important aspects of life so that after the War this encroachment on the liberty of the individual was highly resented.

Besides this stress of war conditions, the character of our social structure itself was fast changing. The scientific inventions all the more wrought a sort of havoc in the transformation of the old order. The state became the Great Society, the individual came to be replaced by the group as the unit of Society, and Politics itself became the Science of Society. Political Philosophy, therefore, was no longer a philosophy of the relation of the individual and the state: it came to be definitely a social theory, a theory of the relations of the individual and the society.

With this change in our social order, the accepted political norms also came to be in the melting pot, and the monistic state, with all its concomitants of rights and liberty,

**Changes in Social Structure.** **Attacks on Monistic State.** was attacked on all its foundations. Its legal structure was upset by sociological facts, its economic activities challenged, its religious supremacy thrown to the winds, its psychological and philosophical bases upturned, and its existence in a 'circumambient void' cut asunder by the hard logic



of the fact of an already existing international society. The individual *versus* the state was replaced by the group *versus* the state, and the old Prophets like Mill and Spencer, Hegel and Bosanquet were replaced by new ones in the persons of Maitland, Figgis, Cole, Duguit, Laski, Krabbe, N. Angell, Miss Follet, Barker, Mac Iver, Hobhouse and the late Prof. Graham Wallas.

All of them presented a new point of view for the new times which had now ushered in.

It was now contended that the state is not the only society in our contemporary life to which the individual should give his adhesion. Within the state itself, the life of man has come to be organised in so many groups, that he is often more interested in them than in the state.

**The Great Society.**

This shows that there has come to be a conflict of loyalties. The state which has thus come to be a Great Society, a group of groups, is more or less a federal process in which every group-unity has a far greater reality than we have hitherto recognised. Hence, on this basis, writers have gone even to the extent that the state has no right of supremacy over other associations. It is not even *a group of groups*: it is only *a group among other groups*.

Of the writers who have considered the state as a group of groups, Gierke and Maitland, Barker and Mac Iver, Graham Wallas and Miss Follet are some of the notable examples, while among those who have dethroned the state to a position of equality with other associations

**Contemporary Writers.**

Laski, Cole, Duguit and Figgis are the greatest luminaries; and those who have brought down the New Leviathan from its high pedestal from an international outlook are Prof. Krabbe and Norman Angell.

It was, firstly, from the legal standpoint that the absolute sovereignty of the state was exposed. Gierke's book on the real personality of corporations was translated by

**The Legal Viewpoint—Gierke and Maitland.**

Maitland in which it was held that corporations were not simply fictitious personalities: they were real because they had a will of their own and they could sue and be sued in law. Hence to them the state was a Corporation of Corporations, existing for co-ordination and adjustment.

Then, from the same point of view, Duguit took the cudgel by saying that it is not the sovereignty of men that is usual: it is the sovereignty of law that is really true to facts. He

**Duguit.** said law is not the command of the Sovereign: it is an expression of 'social solidarity.' Hence agents of government—its different departments—are not to be treated as elements of the sovereignty of the state as much as they should be regarded as the means of the purposes of law. Law as embodying a cohesion of social interests is thus the real Sovereign of the government and its agents. The state to him, therefore, is nothing more than a collection of public services and hence the real Sovereign of the community is not an organ of the state but Law itself which has created even that organ for public service.

Further, Krabbe also from the legal standpoint has dethroned the state. He maintains that it is the 'sense of right' in the individual that is really at the back of all social organi-

**Krabbe.** sation. Law to him is not the command of the Sovereign but an evaluation of social interests. For the conception of the Sovereign is in fact associated with the King of the Reformation times when he possessed in his personality all the legislative as well as other interests of the community. But with the rise of representative government, the law-making function went away to the legislature, and in modern times, because of complexities of life, many other associations have sprung up. In any case, this much is clear that the legislature does not *create* law; it only *finds* law; it clarifies and develops and harmonises the public and private interests of individuals. It is therefore a means or an agent of law. Similarly, the Executive and the Judiciary are simply agents of law. They are, therefore, as Duguit said, no more than public services. But Krabbe maintains that even Duguit is wrong in regarding the state as a collection of public services for they are themselves the creatures of Law. Further, the associations and corporations within the modern state are not public services as much as they are the preservers of some special public interests. Hence the state should be regarded as a community which by its establishment of legal values creates agencies for the rendering of public services and the maintenance of public interests. In this sense, we shall speak not

of the sovereignty of the state but of the sovereignty of Law. In another sense also, Krabbe demolishes the sovereignty of the state. The independence of a state in a group of other states is a relative term, for there are more or less binding body of conventions and agreements in International Law which do to some extent control the acts even of the more powerful nations and may be virtually coercive upon the less powerful. Hence Krabbe reaches a conclusion which justifies an international society based upon International Law. In these ways, therefore, from the legal stand-point the Monistic view of Sovereignty was criticised in favour of the Pluralistic standpoint.

From the economic point of view, the theory of Guild Socialism as expressed by G. D. H. Cole tried to demolish the state sovereignty.

According to this writer, the whole theory of our Representative Government which is based upon the representation of wills is wrong. No one can represent my *will*. He can represent my *function*. Hence the Representative Democracy is to be a Functional Democracy . . . of producers and consumers, and each function or profession is to be organised from the local workshop to the National Guild. In the same way, other associations such as the Church will also be organised. The so-called state would then be nothing more than a political association organised from the local unit to the National Parliament. In these ways, life will become organised in its most important spheres, but for purposes of co-ordination and adjustment, a 'commune' will be necessary. This body will have for its membership men from the National Central Organisation as their representatives in the supreme body. Thus though Cole does away with the modern sovereign state: he replaces it with another 'Leviathan' which may come out to be as powerful as the modern.

Another writer, Mr. Norman Angell, also attacks the sovereignty of the state from the economic point of view. He emphasises the fact of international inter-dependence in economic

**Norman Angell.** life to-day and cites the instances of international syndicates which have outrun the so-called national boundaries. Hence to him division on state basis has become unreal. Moreover, modern discoveries of the steamship and the aeroplane, the radio and the telegraph have already united

the world and have annihilated distances by shrinking the globe so that the things of the farthest distance can be had in no time. Hence, in such an interdependent world, the hostile or the self-sufficient state is a chimera and war a superfluity. The only real thing is the oneness of the human society as based on economic unity.

From the religious point of view, Figgis pleads for a Free Church in a Free State. The rise of churches according to him is as

**The Religious Viewpoint of Figgis.** natural as that of any other association. Churches are never made like a manufacture; they are also instinctive associations of men. Hence why should they be under the control of the state? In the modern world, there are Established Churches. This means two things:

(1) that the Established Church exists by virtue of the recognition of the State and

(2) that the State has favoured one Church against another.

Both the things are preposterous for the Church is as natural an association as the State and hence the latter has no right to control it. Secondly, there is no reason why other churches should not be treated on a par with the so-called Established Church. Hence, in the view of Figgis, if churches are not to be free at present, as they ought to be, they may at least be disestablished so that they may come to breathe the freedom they deserve.

Besides these views philosophically also, the Absolute State as based on the conception of the General Will has been shown unreal by Professor Hobhouse. Beginning with a criticism of the real will and the actual will, he has

**The Philosophic Viewpoint of Hobhouse.**

reached a position by which he has shown that if it is general, it is not will; and if it is will, it cannot be general. In one word, he denies the concept of group mind, that is, the concept that the state has its own mind apart from the minds of its individuals and therefore its own will.

Another writer, McDougall, has no doubt emphasised the significance of the irrational in man—the instincts, the emotions, etc.—but

**McDougall, G. Wallas and Social Psychology.**

he has tried to maintain the concept of the group mind. The late Professor G. Wallas also joined hands with the anti-intellectualism of the above writers and showed the significance of the in-

instincts, etc., in the elections of democracies. To sum up, the advance in social psychology has done away with the metaphysical entity of the state.

Lastly, Professor Laski has supported this iconoclasm from a variety of arguments. He has been influenced by the legal stand-

**Laski.**

point of Gierke and Maitland, by the religious ideas of Figgis, by the economic view-point of the Guild Socialism and by the general spirit of anti-intellectualism, internationalism and the unreality of Absolutism in our contemporary life.

All these writers whom we have considered—with one or two exceptions—are all 'Pluralistic' writers believing in the fact that the State has no right of supremacy over other associations. It is therefore a 'group among other groups' of our great society.

But there are other writers like MacIver and Miss Follet (to whom we have already referred elsewhere) who cannot rightfully be called Pluralistic. Their theories may better be

**Federative  
Writers.**

called 'federative,' for all of them recognise the fact that the real character of our modern society has come to be federal in character; therefore, they are prepared to grant full autonomy to groups. The state, thus comes to be a 'unifying' process as Miss Follet calls it or it is to be regarded as a machinery of co-ordination and adjustment. In one word, they will also not call it a Sovereign State: they will call it only an 'Umpire' over other associations.

Until recently, we used to regard these theories of Pluralism as the contemporary political thought, but in very recent years, even this line of thinking is being abandoned in favour

**Recent Times  
and a Swing of  
the Pendulum.**

of the old ideal of the 'Unified' state. In fact, the era in which we are living is an era of the conflict of ideals, and therefore it would be better to regard it as a transitional stage in our current history. The old idols are being attacked and an attempt is being made to refashion the new. All our cherished ideas and concepts are again in the melting pot. Hence we have not only to view our life from a 'relativistic' standpoint, but also from the Absolutist standpoint, for there are strong leanings, both in political theory and practice,

towards this form of government. Certainly, the pendulum seems to have swung to the other side. Besides this dualism of Pluralism and Monism, we notice, also an under-current of Universalism which though it may be weak at the present time, is yet real in every sense. From this point of view, we aim at a synthesis of life, and it is here that I introduce to you the latest book of Dr. Beni Prasad, I mean the 'Democratic Process,' as perhaps the only book of our times of our faith in universal democracy, for the writer tells us that the logic of history forces him to come to the conclusion that a universal democracy is a necessary result of the democratic process has been going on advancing from precedent to precedent.

Hence whether it is a theory of relativism between Pluralism and Monism or it stands only for Absolutism or only for Universalism—in each case, the conclusions are based on the facts of our passing times. These theories reflect, in one way or another, the conditions in which we are living.

Just as Krabbe emphasised a Universal Democracy under the sovereignty of law based on the 'sense of right' and Norman Angell on the economic interdependence of nations, Dr. Beni Prasad states his case on more reasons than one. He writes:—

"Every age requires working principles and programmes of its own, and adapts its spiritual heritage at numberless points to suit its environment. The history of social philosophy is mainly a record of pamphlets addressed to the times . . . Our social philosophy must represent a fundamental variation from those which expressed the spirit and aspirations of the ancient empires and kingdoms, or of city states and nation states . . . In Europe, Politics started as the science of the affairs of the city. Later it broadened to comprise the large country state. It has now to take the final step and stand forth as the science of the world organisation."

Here Dr. Beni Prasad does not simply emphasise the universal interdependence, and the rightfulness of the League of Nations; he unknowingly makes his "Democratic Process" itself as one of the most opportune 'gigantic political pamphlets' of his own times, for

surrounded by the Absolutisms of the worst type as the contemporary world is, his suggestion is to mend the League of Nations rather than end it, as in so doing man would be realising his ideal in the light of his own historical evolution.

Again, in another passage he tells us that "man is a creature of purpose and he always plans, and that political science must 'un-

**Planning the** ravel' the strands and potentialities of planning  
**Need of the** in the present phase of development." And yet  
**Hour.**

all of us who are aware of what is going on in the world cannot but agree to the realistic note of our author, for in our own times, whether it is the League of Nations or a Socialistic Russia, whether it is a Fascist Germany or Italy, or a Democratic State of the type of U. S. A., all are busy 'Planning' for their social betterment. In one word. Planning is the note and the need of the hour and both in political theory and practice, it is receiving full attention. So great in fact is the emphasis on planning that even in India in every Journal we open, we find an article on some aspect of planning—economic, political. or educational. It is not only on political platforms that planning is being emphasised, in the economic and industrial sphere it is being specially considered, and so far as the Universities are concerned all of us know how both His Highness the Nawab of Bhopal and Mr. Jayakar emphasised even intellectual planning. And now the Sapru Committee on Unemployment is also harping on the same tune.

But in all this talk of 'planning,' it must be remembered, that every body, in our present complex civilisation, is not fit to take up the huge task of reform and reorganisation.

**Experts and** Ours is an age of specialisation and only experts  
**Planning.** and specialists in a particular line or profession should be allowed to have their say in the matter. Should we not take lesson out of the fine criticism of Faguet of 'Democracy' when he called that system of government as 'the cult of incompetence,' for it entrusted portfolios to those who had never known throughout their lives anything of the departments placed under their charge, and hence according to him "the post required a Mathematician but it was given a dancing master;" and is he not correct when we look into the working of the democratic government that a goldsmith is

the Law Member, a carpenter the Foreign Secretary, a tailor the Educational Minister and a shoe-maker the Finance Member of the Central Government?

Now I turn to those circumstances and conditions which have again led people to believe in the Absolute state. Wherever we see,

**Absolutism.** we find a dictatorial form of government. From

Stalin in Russia, Mussolini in Italy and Hitler in Germany, to Roosevelt in U. S. A., the National Government in England, Kemal in Turkey and Reza Shah in Iran we find nothing more than the Executive exercising tremendous powers, perhaps far more than was even seen during the Great War, and yet people are obeying their rulers silently and ungrudgingly. The explanation of this abnormal condition is again to be sought in the special circumstances of the times.

The 'dictatorial idea,' again, is the product of the Great War conditions in the same way as the reaction against the state activities

**The Dictatorial Idea and Italy after the War.** was to be traced to that era. It is certainly the tragedy of human life that two diametrically opposite babies be born of the same parents. On

the one hand, the Pluralistic theories initiated an era of iconoclasm against the Absolutist state: on the other hand, it sowed the seeds of a totalitarian state which was to be far more autocratic than any state we had so far seen. It was, in the first instance, in Italy that several factors contributed to the rise to power of Mussolini and with him of Fascism. Italy could not get much out of the Great War even though it had joined the Allies. Its Adriatic policy had failed, its ventures in the Balkan Peninsula blocked and its efforts in Asia Minor thwarted, while in Africa it got nothing. Hence the sensational Fume Declaration of Wilson put an end to all hopes of Greater Italy, and Italy had to withdraw its delegation from the Paris Peace Conference. Thus diplomatically defeated, Italy because of the stress of War conditions suffered an economic breakdown also, and the condition had reached a limit whence it was extremely difficult to rise unless a genius could come in and apply some very new measures. Here was Mussolini ready to take up the task and it is he who by his Fascist principles has saved Italy from collapse.



Besides Italy, in more or less degree in every country, the Great War had produced abnormal conditions. Hence to meet them, extra-

**Other Countries after the War.** ordinary executive capacity, with agility and despatch, was the need of the hour. This explains why Kemal Pasha and Reza Shah etc. acted as

Dictators and therefore as deliverers in their countries. Even in India, during the civil disobedience movement, the Congress had decided to put itself under the guidance of dictators.

Side by side with these tremendous events came the world-wide economic depression which threw even countries like U. S. A. and England in abnormal conditions. President

**The Economic Depression.**

Roosevelt took to the "New Deal" or to what may be called a dictatorial executive legislation and in England the present National Government had to be organised.

But it was in Germany, that the 'dictatorial idea' got most triumphant. The economic depression, the defeatist mentality, the humiliation, and above all the resentment against the Allies in not disarming themselves all created bad blood. A man of the hour was required and that was provided by Providence in the person of Hitler. Like Mussolini, he also founded a political cult—that of Nazism.

**Germany and Hitler.**

From our point of view both Fascism and Nazism are not simply National Socialist Movements. they have a political theory at their back. That may not have been fashioned in full, but like these movements, their political theory is also in the making. This much, however, is clear that we are already very far both from Pluralism with its federalistic tendencies and Internationalism with its interdependent qualities. We have again turned back to that theory of the state in which the only natural relation of state to state was that of hostility.

**Fascism and Nazism.**

The very word 'National Socialism' to me seems to be a contradiction in terms, unless it be accepted derisively along with the

**The Term "National Socialism"**

so-called State Socialism, for, I think, if it is 'socialism' it cannot be 'National' and if it is 'national,' it cannot be 'socialism.' However, we take first the Italian Fascism.

Fascism, as Mussolini himself tells us, is a peculiar child. It does not resemble other contemporary children. It is neither Italian Fascism. Liberalism. nor Socialism nor Democracy. It repudiates Pacifism.

"War [says Mussolini] alone brings up to its highest tension all human energy and puts the stamp of nobility upon the peoples who have the courage to meet it . . . Thus a doctrine which is founded upon this harmful postulate of peace is hostile to Fascism.' [He further said in 1914] Three cheers for the war . . . Three cheers for Italy's war. And three cheers for war in general. Peace is hence absurd, or rather it is a pause in war."

Further, he tells us that Fascism is also opposed to all international Leagues and therefore also to Universalism, for such leagues 'can be scattered to the winds when once strong national feeling is aroused by any motive—sentimental, ideal or practical' (and this is what he has done in Abyssinia against the League of Nations). Mussolini's dictum 'Beyond the state—nothing,' is being proved literally. 'The 'anti-Pacifist spirit' Mussolini further tells us 'is carried by Fascism even into the life of the individual.' He has to live on 'the alternative of life or death and life to him is duty, struggle and conquest, thus the individual in Fascist theory and practice lives far more dangerously than even Hobbes' individual in the state of nature.

**Fascism is not Socialism.** Fascism, to resume our discussion, is not Socialism in several ways.

(1) It denies the materialistic conception of history for it involves the conflict of interests among the various social groups, while Fascism tries to do away with that conflict. Hence *class war* to Fascism is unreal and undesirable.

(2) The changes in the development of the means and instruments of production, e.g., new discoveries of new materials, new methods of working them and the inventions of science—have their influence no doubt, but other factors are equally important. Fascism recognises even moral factors and hence the fact that man is not to be carried to and fro by the waves of chance: he can control and sway the forces of his life. Mussolini thus does not take a passive view of life, or of a mere doctrine. He

believes in action, and with action, in the formation and formulation of the doctrine.

**Fascism is not Democracy.** Fascism again is not Democracy. It denies some of its essential premises:

(1) It denies the wisdom of majority and therefore its guidance. It repudiates, therefore, the doctrine of popular sovereignty, for the real sovereignty always lies with those in real power and the people follow them like dumb sheep. It is always the minority that rules. Hence if force is the idea behind the *action* of the minority and the consent of the majority, why not have the power of army, tanks, air force rather than enfranchise women and old men.

(2) It affirms inequality of man as against the Equality of Democracy. On this basis, Universal suffrage is to be condemned as a mechanical process of levelling human beings to one plane, for the 'noble training' of nature is being denied. Mussolini thus seems to emphasise the law of the survival of the fittest by saying that it is the right of the strong to live and therefore it is wrong to check the struggle for existence, for according to him it is wrong to say that 'society exists through the well-being and the personal liberty of all individuals.' In the 'plans of nature' the individual is sacrificed to the consideration of the *race*. Hence, if Democracy can be conceived in diverse forms, then Fascism is 'an organised, centralised and authoritative democracy.' Herein we find for the first time that false idea of the race emphasised which has been caught hold of by Hitler and which has resulted in the wild persecution of the Jews.

(3) Mussolini himself tells us that Fascism is not reactionary but revolutionary. In fact it is both; reactionary, because it regards the parliamentary government and political assemblies as irresponsible bodies, though relying in name 'upon broad and popular support.' The people in Fascism are a 'passive' force. The only active force is the Dictator and his party (the chosen few). Thus it is revolutionary also in so far as it does away with the rivalry of parties in the working of the democratic Government and adopts ultra-constitutional methods.

(4) Mussolini also maintains that the individual in the Fascism is not annulled but rather multiplied, just in the same way that a

soldier in a regiment is not diminished but rather increased by the number of his comrades. To argue like this is to argue like the Socialists or Idealists that it is by complete obedience to the state that we realize freedom. Hence to us it seems that the individual has not been 'multiplied:' rather he has been 'mutilated' of his hands and feet. His hands are his rights—which do not exist in Fascism, for the individual has duties only; and his feet are his 'liberties'—which have all been confiscated under it for 'the deciding power in this question cannot be the individual, but the state alone.'

Fascism, further, is completely antagonistic to nearly all the principles of Liberalism. The laissez-faire economics, of Adam Smith, the political liberalism of Mill and the

**Fascism is not Liberalism:** Scientific individualism of Herbert Spencer which

are usually summed up by the term '19th Century Liberalism' have all been contemptuously treated as fore-runners of Anarchy, for under them the state must labour to make itself unnecessary and prepare the way for its own dismissal. Mussolini, therefore, expects that the twentieth century would be "a century of authority; a century of the left, a century of Fascism, a century of Collectivism and hence the century of the state." The conception of the Liberal state was not one of 'directing force:' rather it was limited to the function of recording results. It was in the words of Humboldt a 'lazy' state. The Fascist state is

The Fascist state is the Ethic state.

that of an 'Absolute,' in comparison with which all individuals or groups are relative. It is conscious of itself, it has its will and personality, and therefore it may be called the 'Ethic State.' As Mussolini himself tells us the Fascist State "is not merely a guardian, pre-occupied solely with the duty of assuring the personal safety of the citizens; nor is it an organisation with purely material aims, such as to guarantee a certain level of well-being and peaceful conditions of life . . . Nor is it a purely political creation, divorced from all contact with the complex material reality which makes up the life of the individual and the life of the people as a whole. It is a spiritual and moral fact in itself, since its political, juridical and economic organisation of the nation is a concrete thing; and as such an organisation must be in its origins

and development a manifestation of the spirit. The state is the guarantor of security both internal and external, but it is also the custodian and transmitter of the spirit of the people, as it has grown up through the centuries in language, in customs and in faith."

The state, as Hegel would have put it, represents the development of the idea and therefore the 'Immanent spirit of the nation' or as Burke would have put it, and which Mussolini also says 'the state is not only a living reality of the present, it is also linked with the past and above all with the future.'

But besides this ethical view of the state, another contribution of Fascism is its 'Corporative state' from the point of economic theory and organisation. Mussolini states that Fascism meets the problems of the economic field by a system of syndicalism both in labour and industry and 'the Fascist State has drawn into itself even

The Fascist state  
is Corporative state.

the economic activities of the nation, and through the corporative Social and educational institutions created by it, its influence reaches every aspect of the national life, and includes, framed in their respective organisations, all the political, economic and spiritual forces of the nation.' Thus the Fascist state is not simply the Organic

state, the Ethic state and the Corporative state, it is the 'Synthetic state' standing for the fusion of all the diverse elements in the national whole. In

The Fascist state  
is Synthetic state.

this sense, it is entirely antithetical to the static state: it is definitely a dynamic state, a state that is not simply in the 'being:' but which is also every minute in the 'becoming.' Mussolini clearly sets forth his view thus "When the conception of the state declines, and disunifying and centrifugal tendencies prevail, whether of individuals or of particular groups, the nations where such phenomena appear are in their decline." Thus the Pluralistic or the federative views of the state and even the internationalism are to Mussolini simply the views of fall or decline: the only view of continuous life and progress is the view diametrically opposite to the Pluralistic, the federative and the International, and that is the 'concentrated' or the 'integrated' view of the state. In one word, decentralisation means degeneration; centralization means regeneration,—Renaissance.

To sum up, Fascism stands for Responsibility, Hierarchy and Discipline as opposed to the motto of Democracy as summed up by the words—Liberty, Equality and Fraternity.

**The Elements and Principles of Fascism.**

Though it arose as a party of action, it has continuously provided itself with a ready-made philosophy. It has attempted and aspired to build its social and political order on the imperial traditions of Rome, on the Catholic Church and on Nationalism and Syndicalism. This is why its study involves a centralised centre with a decentralised administration. In its economic aspects, it stands for a realistic distributism as opposed to Capitalist—"that economic system which tends to concentrate the means of production into the hands of the few and to reduce the vast majority of people to the status of wage-earners."

Lastly, though Mussolini himself is said to have once said that 'Fascism is not an article of export,' he has more than once declared

for the moral conquest by the ideas of Fascism, and therefore for the establishment of a moral Empire. In this respect, it seems, Fascism has

been partly successful. It has definitely invaded Germany with success and it has at least created tumult in England and on the Continent. And now, though unsuccessfully, it has come to carve out a material Empire also. Thwarted in Asia Minor and the Fiume Valley and disappointed in the Balkans after creating the Corfu affair, it has now turned towards Abyssinia and we have yet to see what comes out of this venture for this action of Mussolini has not only been an action of extreme aggrandisement: it seems to have discredited the League System, and already we find dis-armament resulting in re-armament. In one word Fascism seems to prove that 'Democracy is a decaying corpse and international peace, a coward's dream.'

After Fascism in Italy, we may now take up Fascism in Germany where it is usually called either Hitlerism or Nazism. We have al-

**Fascism in Germany—Nazism.**

ready seen how Nazism is the product of a defeatist mentality. For 16 years after the defeat of Germany, Hitler's party was trying to come in power and now, after all, it has come to power. It does.

not differ much from Italian Fascism of which it may be regarded only a branch, but this much can easily be said that it is more intense, more barbarous and more terrorist than its Italian counterpart. In its political theory, therefore, though the bases are more or less the same, we find a greater vehemence, a greater falsity and a greater dogmatism.

In the first place, the 'National Socialist state of Germany is called by its theorists as a 'National Constitutional state.' These words seem to suggest to us the democratic phra-

**Nazi State—a National Constitutional State.** seology of the Responsible government, but in fact this Dictatorial state is but another form of an anti-democratic state. The word 'constitutional' has been used in a sense in which it seems to us unmeaning. With it there comes in an era of 'Sophistic' method in politics as against the Synthetic approach of which I have already spoken, and perhaps we will have again to raise a Socrates among us to look at the glib use of modern terms and then to emphasise the necessity of correct definition. To come to the real point, 'the hall-mark of a true representation' as a writer puts it 'is seen in the personification of the will of the people in a representative who feels himself to be one with the people and so is in a position to make his own will effectively representative.' This means that the law of necessity and power are the only two values of significance in a true conception of the state.

Again, the very word 'National' has been used not in the accepted sense of the word 'nation' but in the metaphysical sense of the term, thereby bringing in an unreality in the sociological and realistic approach of politics.

The words Nation and National.

The word nation has been made one with an active party on the one hand and with race on the other, and race is a thing which in fact does not exist in the 20th century. In any case, the ideas of the elite, and the Aryan supremacy have been emphasised and with them the idea of the mission of the German state. It is on such false doctrines that the whole political philosophy of the state is being built and it is this conception which has been called the new conception of History.

Further a conception of national socialism has been sponsored

as against the International socialism of Marx thereby creating a sort of racial displeasure against the  
 A Totalitarian Jews for after all, it is suggested, that Marx  
 state. wrote as a Jew and for the benefit of the Jews.

Hence "the only dominant idea is the racial idea, the only scientific conception is the organic conception and the only political will is that of National Socialism." In this way, the new 20th century type of the state comes to be the Authoritarian state which goes counter to all the traditions of the liberal state or it is the Totalitarian state as against the democratic and constitutional forms which were developed in England and America. Its principles have been best summed up in the phrase "Authority from the top down, responsibility from the bottom up" and this is nothing but the political philosophy of an army, or as it has been called, a theory of Regimentation. Thus German Fascism is even more Absolutist than Italian Fascism and is therefore, naturally more opposed to Democracy, Liberalism, Socialism and Internationalism.

Besides these new theories of the ultra-absolutist view of the state in contra-distinction to the Pluralistic theories, Kelsen, a new Austrian writer, has developed a new theory of

Kelsen's theory of the pure science of state and law. state and law. of law. He has also been led to the Absolutist conclusions. In one word, the recent tendency in political thought as well as in institutions is not simply against democracy, it is against the pluralistic view. A unified view of state and sovereignty is again being emphasised.

But this is not all. For if we look at realities, the supporters of theory have over-emphasised their case. The Pluralists were right in recognising the federal character of modern society, but they over-stated their case when they tried to universalise their attack on sovereignty. The Monists like Austin were right in analysing the social structure to find out the supreme power, but they were wrong to universalise the conception of a determinate superior for every type of society.

Hence the only correct view would have been not to take an 'absolute' stand for one theory or other: rather an attempt should



have been made to meet the different situations through which the human society was passing. In one word, a 'relativistic' view of state and society would have met the demands of the situation and it is this which is being emphasised very recently for it is being recognised day by day that the transitional character of our society and times points to a view of life which should not only be not considered in terms of rigidity, but of which flexibility and plasticity should be the main characteristics.

Thus under the Relativistic view it has been pointed out that there may arise and there already are many situations in which the monistic view of sovereignty does not exist as in the case of mandates. Hence the existence of such anomalous cases shows the need of a pragmatic and localised conception of Monism. Further, even in the most autocratic states of to-day, which we have already seen, a monism in central government has no doubt been well emphasised, but devolution in local and provincial governments has become their chief feature, that is, centralisation has been accomplished on the foundations of decentralisation. This means the contemporary world has incorporated the Pluralistic criticism of the state and its institutions and it has become wiser by reconciling the monistic and the pluralistic views of society.

This 'relativism' however is not simply true of Sovereignty alone (as shown). I find it affecting nearly all our political terms. Thus, in Fascism, I note the following tendencies.

(1) Fascism, whether it is in Germany or in Italy, tries to build itself *on the will of the people* but this will finds its expression in the *Dictator*. Hence, as Mussolini has suggested, it is a new kind of Democracy (and why should it not be so when we have already seen in history how Napoleon III had become an Emperor by a popular vote). And yet we know that *the Dictator is not responsible to the people*: he is responsible to God alone. Herein we find a transition from the Divine Right of Peoples to the Divine Right of Dictators.

(2) 'Perfect liberty lies in thy service' is a common Christian dogma, and in political life it was sanctioned both by Hegel and

Bosanquet. In our days, Mussolini and Hitler have given their own view of it. To Mussolini 'Liberty is a relative term. Liberty is not a right, it is a duty . . . The notion of liberty changes in time. There is a liberty for times of peace and another liberty in times of war.'

(3) Fascism regards the state as organic based on general will and yet it considers itself in terms of numbers also for as I have already shown, an individual in society becomes stronger and is multiplied. In this way, the Fascist conception comes in between the arithmetic view of the social contract, and the social organism of Plato and Rousseau.

(4) The state has to see that the activities of the individuals and other groups are co-ordinated to promote general good and the individual has to see that he is not an isolated unit, that he is a member by nature and necessity of the community; and yet individuals have certain 'natural rights' which lie at the very root of society. By infringing them the state would defeat its own end. The individual has these rights as an individual and as a member of his family. The rights of a father over a family must be respected, his private relations left to him and his private opinions allowed. The state, therefore, has no right to coerce the individual in any way beyond what is necessary to safeguard and promote the collective interest. "There is no natural right that confers on man the right to do exactly what he likes with his own, beat his wife, starve his children, spoil his property, sell himself in slavery, commit suicide, any more than the state has a right to do anything whatever that it pleases. The moral law steps in and must step in everywhere to regulate the limits of what constitutes rights one way or the other."

There could be no better illustration of the transitional period we are dealing here than this conception of relative individualism and collectivism, of rights and duties, of abstract and concrete liberties. If not the mistake of the social contract writers, surely that of Mill has been committed, and we find a return to the self-regarding action and the other regarding action, the only difference being that with Mill the emphasis lay upon the individual and with Fascism the emphasis lies upon the State.

(5) Fascism, further, does not favour federative tendencies for it regards such state a weak state, a state divided against itself. Hence it has decided to take lesson out of pluralistic criticism by making political centralisation upon an administrative decentralisation. This is nothing but a relativistic standpoint in administration.

(6) While Socialism would abolish private property, Fascism does not. Private initiative in the field of production is considered useful for the community and is therefore sanctioned as a natural right whereby the family tie is strengthened. But private property is also a public trust. If abused in the sense that responsibility to the country is not being discharged, the individual will get it either curtailed or abrogated altogether.

(7) Lastly, even in the relations of the church and state this relativism has been maintained. In theory, the Fascist state has sanctioned Roman Catholic Church as the Established Church. In practice, it has recognised the semi-independence of the Papal See.

These points here enumerated are not true simply of Italy: they also apply to Germany. But we must remember that there is far greater rigidity in Germany in favour of the state as against the claims of an individual, his rights and liberties, than we find it in Italy, and this is specially noticeable in the economic sphere. Italian Fascism aims at 'the maximum of planning with the minimum of government interference' (because of its corporations). The German National Socialism has proved so far to entail the maximum of Government interference with the minimum of planning.'

Besides this via media between Ultra-absolutism and Ultra-pluralism, we find another tendency cropping up in countries which have ever been used to democratic form of government. Thus in U. S. A. it is not simply the Supreme Court which has annulled the Industrial and Agricultural Acts of the 'New Deal,' the ex-President Hoover has challenged the whole dictatorial legislation as a challenge to liberty. Hoover, therefore, stands forth as the champion of individual liberty to an extreme which can only be justified by the anti-thesis of state control as applied and advocated by President Roosevelt.

Thus says Hoover, 'Liberty is an endowment from the Creator of every individual, man and woman, upon which no power, whether economic or political, can encroach and that not even the government may deny.' "Liberty is a thing of the spirit—to be free to worship, to think, to hold opinion and to speak without fear—free to challenge wrong and oppression with surely of justice. Liberty conceives that the mind and spirit of man can be free only if the individual is free to choose his own calling, to develop his talents, to win and to keep a home sacred from intrusion, to rear children in ordered security. It holds he must be free to earn, to spend, to save, to accumulate property that may give protection in old age and to loved ones."

In short, the Programme of the 'New Deal' is a Programme of National Regimentation and is therefore the most stupendous invasion of the whole spirit of liberty that the nation has witnessed since the days of Colonial America. Thus in these words, Hoover stands forth as one of the greatest champions of individual liberty in contemporary times and just as the absolutists have gone to the extreme limit of founding an Authoritarian state, in the same way Hoover has gone to the extreme limit of justifying the abstract conception of the liberty of the state of nature, a conception which considers liberty as nothing more than the absence of all restraints upon the powers and faculties of individuals.

To summarise, just as from the Reformation times to the present day, the upper current was represented by Nationalism and the nether

**Summary of Recent Tendencies in Political Thought.** one by Internationalism, similarly in political thought and practice to-day, the upper current is that of absolutism and dictatorship, but the nether one is that of Federalism and Universalism. Mid-way between these two, lies the transitional aspect of 'Relativism' between Monism and Pluralism, and concurrently with this, though definitely apart, there is running yet another aspect of the so-called Individualism.

As Bismarck would have said, certainly this is a new era, a new age. All our accepted doctrines are in the melting pot and we are busy constructing the new—sometimes maintaining the old foundations, sometimes changing their face only and sometimes erecting a new structure.

**O u r   T r a n s i t i o n a l   T i m e s .**

In Hegels' phraseology, the spirit of man is manifesting itself in **objective conditions** by seeing the changed circumstances, for according to his Philosophy of History, every age depicts in its institutions the highest development of the idea and hence the monistic state represented the synthesis of an older order. From the welter of the city state and the Roman Empire, the Feudal society and the Medieval universalism, the Renaissance and the Reformation, the national state emerged as a synthesis of life. But in our times the development of Pluralism came to be a new anti-thesis so that a new synthesis is again being attempted by Fascism and Nazism.

But in recent times, the establishment of the League in the political sphere, and the economic interdependence as emphasised

**Universal Solidarity a Reality.**

by Norman Angell, and moral unity of the world as emphasised by Krobe in his 'sense of right' coupled with the historical, sociological, psychological and scientific explanation of a logically evolving universal democracy by Dr. Beni Prasad have already added a comma to the movement of absolutism, if not a semi-colon or a full stop. The universal opposition to the action of Italy in Abyssinia is a living proof of the growing universal solidarity among the peoples of the earth. Surely, we are living in an age of universal democracy though visibly there are reactionary tendencies as exhibited by Fascism and Hitlerism. The only instance that I can place here is the instance of a proverb in our Hindustani Language. We say in our daily life that 'one bad fish spoils the whole tank' and this is what is being done in Europe to-day.

But this does not mean that all the fish in the tank are bad. Democracy therefore remains unscathed even in spite of these glaring

**Democracy Comes out Unscathed.**

violations of its principles. Every one of us remembers how Sir Frederick White said as regards India that it was undesirable to impose twentieth century institutions upon a country of the 11th century civilisation, and now the scale has been turned in Europe itself by the establishment of medieval barbarism upon a 20th century civilisation. May I ask Sir Frederick White, if Germany to-day is unfit to govern simply because there is no more of the liberalism of the democratic Weimar constitution of the German Republic, there is

a deep-seated antagonism of man to man, for the Jew is a 'tape worm' in human organism and is therefore to be exterminated, and lastly that woman has no function beyond the rearing of children and the pleasing of man. And yet Germany has thrown off the shackles of the Treaty of Versailles and is ready with its guns to meet any adversary. Pacifism seems to be dead and we seem to hear the cry of 'rattling sabre and shining armour,' of war, militarism and aggrandisement.

But, as I have already suggested, our civilization is in a drift, and these are but passing phases. Let us hope and aspire for a better world to live in, and the only way for it

**The drift of civilization.** is not to emphasise the 'revolutionary terrorism' of Fascism but the pacifism and evolutionary universalism of the League of Nations.



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